

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 30 1981


DANA ANN JONES,
Plaintiff,
vs.
JONES TRUCK LINES, an
Arkansas Corporation,
Defendant.

NO. 80-C-584-E

VOLUNTARY DISMISSAL WITH PREJUDICE
BY STIPULATION


COMES NOW both parties, Plaintiff Dana Ann Jones and Defendant Jones Truck Lines, an Arkansas Corporation, who hereby stipulate that, pursuant to Rule 41 of the Federal Rules of Civil Procedure, the Complaint herein is hereby dismissed with prejudice to any future action for the reason that the parties have jointly entered into a settlement agreement.

By:


JOHN S. MORGAN
107 Wellington Square
3150 E. 41st Street
Tulsa, Oklahoma 74105

and


By:


TOM H. BRUNER
Suite M-100, Beacon Building
Tulsa, Oklahoma 74103

ATTORNEYS FOR THE PLAINTIFF

RHODES, HIERONYMUS, JONES, TUCKER & GABLE

By:


WILLIAM B. SELMAN
2900 Fourth National Bank Building
Tulsa, Oklahoma 74119
(918) 582-1173

ALLAH-U AKBAR ALLAHU-U WAHID
and ABDULLAH RAMADAN SHABAZZ,

VS.

Defendants.

FILED

ORDER

The defendants have filed a Motion to Dismiss pursuant to F.R.Civ.P. 12(b)(6) for failure to state a claim. In considering the Motion to Dismiss, the Court must accept as true the material facts alleged by plaintiff. Reynolds v. United States of America, No. 79-2068 (10th Cir., March 9, 1981), ____ F.2d ____.

"A. The Department of Corrections may extend the limits of the place of confinement of a committed offender at any of the state correctional facilities by authorizing such committed offender under special conditions to be away from such correctional facility but within the

state. Such authority may be granted for any of the following purposes:

"(6) To participate in work, educational and training programs in the community; or

"(7) For any other reasons consistent with the reintegration of a committed offender into the community."

Included in the body of the complaint filed by Mr. Shabazz is a quote from a letter of Jamie L. Scruggs, Case Manager II, Central Classification, wherein Mr. Shabazz was advised:

"In order to be eligible for study release, you must be eligible for work release. Therefore, you must be within six months of parole or discharge. Due to your length of sentence (99 years, with (one) 1 year consecutive case) and your parole denial in July, 1980, you are not eligible."

Mr. Shabazz seeks compensatory damages against each defendant in the amount of \$100,000.00 and punitive damages against each defendant in the sum of Five Million Dollars. He also seeks a declaratory judgment that the practices and policies implemented and executed by the defendants have violated his constitutional rights.

In Randle v. Romero, 610 F.2d 702 (10th Cir. 1979), a New Mexico State prisoner brought a civil rights action alleging the warden, deputy warden and chief prosecution officer had violated his rights by refusing to transfer him to a minimum security facility solely because he had been sentenced to consecutive terms. In affirming the trial court's dismissal of the action, the Tenth Circuit Court of Appeals said:

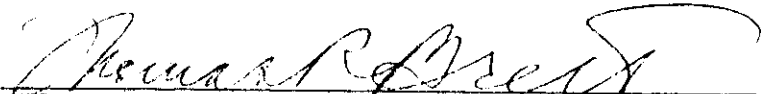
"Matters affecting transfer are an administrative function. We have often held that the basic responsibility for the control and management of penal institutions lies with the administrative agency and is not subject to judicial review unless exercised in such a manner as to constitute 'clear abuse or caprice upon the part of prison officials.' Bethea v. Crouse, 417 F.2d 504, 506 (10th Cir. 1969).

"The only remaining issue is whether the transfer policy constitutes abuse or caprice on the part of prison officials to the extent that appellant has been deprived of some constitutional right. It is not clear which of appellant's constitutional rights he believes have been denied him or how. If appellant is claiming that he is entitled to a hearing to determine his transfer rights, his claim must fail. It is well settled that prisoners have no constitutional right to a hearing in transfer situations, absent some foundation in state law establishing such a right. Meachum v. Fano, 427 U.S. 215, 96 S.Ct. 2532, 49 L.Ed.2d 451 (1976)."

It appears beyond a reasonable doubt from the complaint filed by plaintiff, Abdullah Ramadan Shabazz, that he can prove no set of facts in support of his claim which would entitle him to relief.

IT IS, THEREFORE, ORDERED the Motion to Dismiss of the defendants is sustained and the complaint and cause of action are dismissed for failure to state a claim pursuant to F.R.Civ.P. 12(b)(6).

ENTERED this 30th day of April, 1981.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 81-C-142-E

NOTICE OF DISMISSAL
WITHOUT PREJUDICE

Oliver S. Howard

Attorneys for Plaintiff,
BACHE HALSEY STUART SHIELDS,
INCORPORATED

Oliver L. Howard

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OKLAHOMA

INTERSTATE COMMERCE COMMISSION,)
Plaintiff)
)
vs.)
)
NATIONAL TRAILER CONVOY, INC.)
an Oklahoma Corporation)
Defendant)

Civil No. 81-C-55-B

INJUNCTION
Interstate Commerce Act -
49 U.S.C. § 11702(a) (4)

CONSENT JUDGMENT

This cause having come on for consideration, and the Court, after having considered the pleadings, the subjoined consent and stipulation of the parties for Consent Judgment as filed herein:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

(a) That the defendant herein, its transferees, assigns, officers, agents, employees, representatives and all those persons, firms, companies, and corporations and their respective officers, agents, employees, and representatives, in active concert or participation with them, be perpetually enjoined and restrained from, in any manner or by any device, directly or indirectly, failing to return escrow funds held by the defendant for the account of lessors under permanent or trip lease no later than 45 days after the lease relationship is terminated, in accord with the requirements of 49 C.F.R. 1057.12(1) (6); and

(b) That the defendant herein acknowledge the receipt of the injunctive orders by the Court herein entered within 20 days of their entry, by furnishing suitable evidence of same by way of acknowledgements to the Clerk of the Court and to plaintiff's counsel; and

(c) That the defendant is required to certify to the Court by way of affidavits, by no later than July 1, 1981, that it is in compliance with the provisions of this Consent Judgment.

(d) The parties shall bear their own costs in this matter.

Signed this 28 day of April, 1981.

S/ THOMAS R. BREIT

UNITED STATES DISTRICT JUDGE

Approved and Agreed:

Fredric L. Auletta
Fredric L. Auletta
President
NATIONAL TRAILER CONVOY, INC.

Ann P. Van Gaasbeek
Ann P. Van Gaasbeek
Attorney for Plaintiff
INTERSTATE COMMERCE COMMISSION

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

DONALD D. REIMER and GLORIA C.)
REIMER, husband and wife,)
)
Plaintiffs,)

-vs-

JEFFERSON J. BAGGETT; B & D)
TRUCKING, INC., a corporation;)
BEACON TIRE SERVICE NO. 2, INC.,)
a corporation; RYDER TRUCK)
RENTAL, INC., a Florida)
corporation; JAMES A. STEELMAN,)
d/b/a BEACON TIRE SERVICE; and)
FLEETWOOD TIRE & RUBBER LTD.,)
a Georgia corporation,)
)
Defendants.)

APR 21 1981
JAMES O. ELLISON
U.S. DISTRICT COURT

No. 79-C-47-E

ORDER OF DISMISSAL

NOW on this 21st day of April, 1981, the above styled cause comes on before the Court upon the stipulation for dismissal, pursuant to Rule 41 of the Federal Rules of Civil Procedure. The Court, being advised that the plaintiff desires to dismiss with prejudice its cause of action against Fleetwood Tire & Rubber Ltd., only, finds that same should be allowed and entered.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by this Court that the defendant, Fleetwood Tire & Rubber Ltd., be and the same is dismissed with prejudice as to future filing.

S/ JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF MAILING

I hereby certify that on this 23rd day of April, 1981, I mailed a true and correct copy of the above and foregoing instrument to Timothy E. McCormick, 117 East Fifth Street, Tulsa, Oklahoma 74103, Dale F. McDaniel, 2865 East Skelly Drive, Tulsa, Oklahoma 74135, and John H. Tucker, 2900 Fourth National Building, Tulsa, Oklahoma 74119, all with proper postage thereon fully prepaid.

Rodney A. Edwards
Rodney A. Edwards

NOTE: THIS ORDER IS TO BE MAILED
BY MOVANT TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.

FILED
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

APR 28 1981

MARSHALL C. MARTZ, and LIBERTY
MUTUAL INSURANCE COMPANY,

Plaintiffs,

vs.

FRIGHTLINER CORPORATION, a
Delaware corporation,

Defendant.


No. 80-C-163-E ✓

JUDGMENT

Upon the Defendant's motion for summary judgment, the same being unopposed by Plaintiffs herein, and, having found that there are no disputed material facts present herein, and that Defendant is entitled to judgment as a matter of law,

IT IS ORDERED, ADJUDGED AND DECREED that judgment be entered in favor of Defendant and against Plaintiffs, and that Plaintiffs take nothing herein.

Dated this 28TH day of April, 1981.


JAMES B. ELLISON
UNITED STATES DISTRICT JUDGE

APR 31, 1981

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

BOARD OF TRUSTEES OF PIPELINE)
INDUSTRY BENEFIT FUND,)
)
Plaintiff,)
)
vs.) No. 81-C-149
)
HUMBLE PIPELINE CONSTRUCTORS,)
)
)
Defendant.)

ORDER OF DISMISSAL

NOW on this 28th day of April, 1981, plaintiff's Motion for Dismissal coming on for consideration and counsel for plaintiff herein representing and stating that all issues, controversies, debts and liabilities between the parties have been paid, settled and compromised;

IT IS THE ORDER OF THIS COURT that said action be, and the same is, hereby dismissed with prejudice to the bringing of another or future action by the plaintiff herein.

S/ THOMAS R. BRETT

JUDGE OF THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

F I L E D

APR 27 1981

No. 80-C-179-B

Jack C. Silver, Clerk
U. S. DISTRICT COURT

Defendant.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this action is dismissed with prejudice. Each party is to pay his or her own costs.

United States District Judge

FLOYD M. CONATZER, et al.,
Plaintiffs,
BEATRICE FOODS COMPANY,
Additional Party Plaintiff,
vs.
THE FIDELITY AND CASUALTY
COMPANY OF NEW YORK, et al.,
Defendants.

NOTE: THIS ORDER IS TO BE MAILED BY MOVANT TO ALL COUNSEL AND PRO SE LITIGANTS IMMEDIATELY UPON RECEIPT.

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

APR 23 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

PLAZA NATIONAL BANK,
a National Banking Association,

Plaintiff,

vs.

No. 80-C-454-E

UNITED STATES FIRE INSURANCE
COMPANY, a New York Corporation,

Defendant and
Third Party Plaintiff,

vs.

GERALD N. ALEXANDER,

Third Party Defendant.)

O R D E R

WHEREAS on the 23rd day of April, 1981 all the parties herein filed their joint application for a dismissal with prejudice of this action upon the grounds that they had entered into a written Release on March 13, 1981 releasing one another of and from all liability herein asserted and alleging that the claims and cause of action heretofore asserted have now been rendered moot and praying that this action should be dismissed with prejudice. The Court finds that application should be sustained as the parties have settled their claims and cause of action one against the other and that this action should therefore be dismissed with prejudice.

NOW, THEREFORE, BE IT ORDERED, ADJUDGED AND DECREED by the Court that this action be and the same is hereby and by these presents dismissed with prejudice and all parties are released to go hence without further delay.

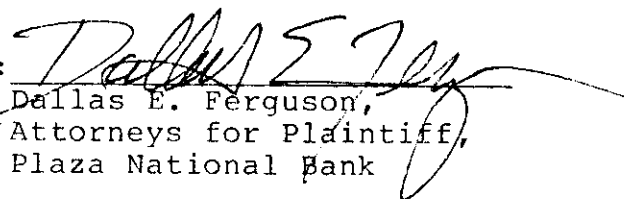
S/ JAMES O. ELLISON

JUDGE

APPROVED AS TO FORM:

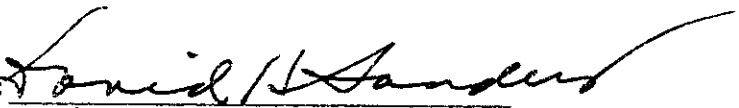
DOERNER, STUART, SAUNDERS,
DANIEL & ANDERSON

By:


Dallas E. Ferguson,
Attorneys for Plaintiff,
Plaza National Bank


SANDERS & CARPENTER

By:


David H. Sanders,
Attorneys for United States
Fire Insurance, Defendant
and Third Party Plaintiff

GARRISON, BROWN & CARLSON

By:


Alan R. Carlson,
Attorneys for Gerald N.
Alexander, Third Party
Defendant and Cross-Plaintiff.

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

APR 23 1981

PLAZA NATIONAL BANK,
a National Banking Association,

Plaintiff,

vs.

UNITED STATES FIRE INSURANCE
COMPANY, a New York Corporation,

Defendant and
Third Party Plaintiff,

vs.

GERALD N. ALEXANDER,

Third Party Defendant.)

Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 80-C-130-E

O R D E R

WHEREAS on the 23rd day of ~~March~~ ^{April}, 1981 all the parties herein filed their joint application for a dismissal with prejudice of this action upon the grounds that they had entered into a written release on March 13, 1981 releasing one another of and from all liability herein asserted and alleging that the claims and causes of action heretofore asserted have now been rendered moot and praying that this action should be dismissed with prejudice. The Court finds that application should be sustained as the parties have settled their claims and causes of action one against the other and that this action should therefore be dismissed with prejudice.

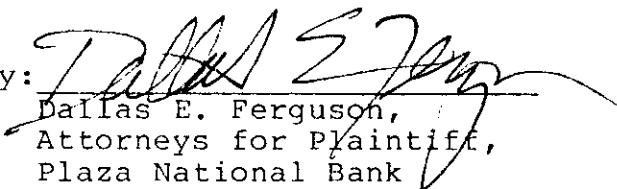
NOW, THEREFORE, BE IT ORDERED, ADJUDGED AND DECREED by the Court that this action be and the same is hereby and by these presents dismissed with prejudice and all parties are released to go hence without further delay.

S/ JAMES O. ELLISON

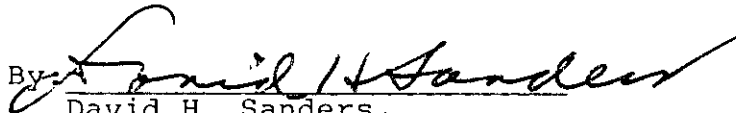
JUDGE

APPROVED AS TO FORM:

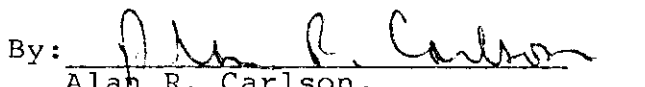
DOERNER, STUART, SAUNDERS,
DANIEL & ANDERSON

By: 
Dallas E. Ferguson,
Attorneys for Plaintiff,
Plaza National Bank

SANDERS & CARPENTER

By: 
David H. Sanders,
Attorneys for United States
Fire Insurance, Defendant
and Third Party Plaintiff

GARRISON, BROWN & CARLSON

By: 
Alan R. Carlson,
Attorneys for Gerald N.
Alexander, Third Party
Defendant and Cross-Plaintiff.

FLOYD C. HARRIS,
Petitioner,
vs.
MACK ALFORD, et al.,
Respondents.

No. 81-C-43-E

FILED

APR 23 1961

Jack C. Silver, Chief
U. S. DISTRICT COURT

The Court now has before it for consideration Petitioner's Petition for Writ of Habeas Corpus. Petitioner is presently incarcerated in the Stringtown Correctional Center, Stringtown, Oklahoma, by virtue of a judgment and sentence rendered on the 19th day of July 1973, in the District Court of Tulsa County, Case No. CRF-73-228. Petitioner's appeal to the Court of Criminal Appeals, Case No. F-73-468, resulted in the affirmance of the judgment and sentence, Harris v. State, 523 P.2d 1140 (Okla. Crim. 1974).


Petitioner herein raises five issues for the Court's consideration. The State concedes that Petitioner has exhausted his state remedies as to two of these issues, but contends that he has not as to the remaining three.

Having reviewed the file, the transcript of the state proceedings, and the relevant authorities, the Court concludes that Petitioner herein has not exhausted his state remedies as to his contention that the trial court improperly communicated with the jury, that a certain witness was induced to change her testimony, and that a state's witness who had made statements concerning Petitioner's innocence was found hanged in his cell, and that notes left by the witness on his cell wall had been covered up. As to Petitioner's contentions that the evidence was insufficient to support the jury's verdict, and that the prosecution's closing argument prejudiced the jury, even though it appears that Petitioner's state remedies have been exhausted, the Court concludes that to entertain these contentions at this time would be a waste of judicial resources. Petitioner could conceivably obtain relief from the state courts on his other contentions, and, in the event that he

does not and the matter returns to this forum, this Court may then consider all of Petitioner's allegations in one proceeding. See generally, Carothers v. Rhay, 594 F.2d 225 (Ninth Cir. 1979); Simmons v. Wainwright, 585 F.2d 95 (Fifth Cir. 1978); Gonzales v. Stone, 546 F.2d 807 (Ninth Cir. 1976); Ray v. Howard, 486 F.Supp. 638 (E.D. Pa. 1980); and Annot., 43 A.L.R. Fed. 631 (1979) and the cases collected therein. Exhaustion, of course, is generally required, e.g., 28 U.S.C. § 2254(b), (c); Omo v. Crouse, 395 F.2d 757 (Tenth Cir. 1968); Brown v. Crouse, 395 F.2d 755 (Tenth Cir. 1968); Karlin v. State of Oklahoma, 412 F.Supp. 635 (W.D. Okla. 1976).

Accordingly, the Petition for Writ of Habeas Corpus should be dismissed without prejudice to allow proper state court review of Petitioner's allegations.

It is so Ordered this 22nd day of April, 1981.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

APR 23 1981

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	
)	
ARCHIE L. WOLF and)	CIVIL NO. 81-C-151-B
ROBERTA M. WOLF,)	
)	
Defendants.)	

NOTICE OF DISMISSAL

COMES NOW the United States of America, Plaintiff herein, by and through its attorney, Kenneth P. Snoke, Assistant United States Attorney for the Northern District of Oklahoma, and hereby gives notice of its dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action without prejudice.

Dated this 22nd day of April, 1981.

UNITED STATES OF AMERICA

HUBERT H. BRYANT
United States Attorney

Kenneth P. Snoke

KENNETH P. SNOKE
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JOHN B. FRANKLIN,
Plaintiff,

-vs-

SOUTHWESTERN BELL TELEPHONE
COMPANY, a corporation,
Defendant.

FILED

APR 23 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 80-C-477-C ✓

ORDER OF DISMISSAL

NOW on this 23rd day of April, 1981, the above styled and numbered cause comes on before the Court upon the stipulation of the parties for an Order of Dismissal. The Court, being advised that the parties have compromised all matters in dispute, finds that the above styled and numbered cause should be dismissed with prejudice as to future filing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the above styled and numbered cause be, and the same is hereby dismissed with prejudice as to future filing.


UNITED STATES DISTRICT JUDGE

CERTIFICATE OF MAILING

I hereby certify that on this 22 day of April, 1981, I mailed a true and correct copy of the above and foregoing instrument to Rodney A. Edwards, 201 West Fifth, Suite 400, Tulsa, Oklahoma 74103, Attorney for Defendant, with proper postage thereon fully prepaid.


Curtis J. Shacklett

38

IN THE UNITED STATES DISTRICT COURT L. E. D.
FOR THE NORTHERN DISTRICT OF OKLAHOMA

APR 22 1981

KALTAK RESOURCES, LTD.,
a corporation,

Plaintiff,

vs.

CROWN OIL COMPANY,

Defendant.

Jack M. [unclear]
U. S. DISTRICT COURT

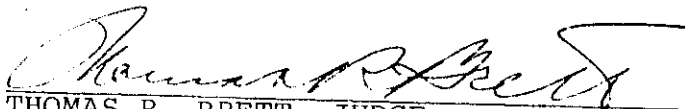
No. 80-C-77-B ✓

ORDER OF DISMISSAL WITH PREJUDICE

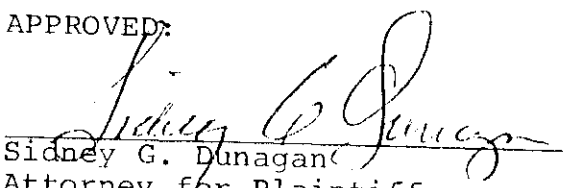
There comes on for consideration the Application of the parties hereto for an Order dismissing the above-captioned action and each and every claim for relief therein, with prejudice, and the Court being fully advised and having considered the Settlement and Compromise Agreement filed herein FINDS and IT IS ORDERED

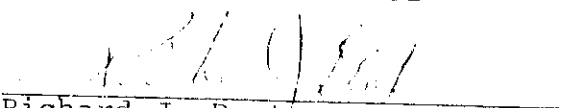
That plaintiff's Complaint and each and every cause of action and claim for relief set forth therein should be and are hereby dismissed with prejudice; that each party hereto shall bear its own costs and attorneys' fees except for the Special Master's fees which shall be borne by the defendant Crown Oil Company.

Dated this 22nd day of April, 1981.


THOMAS R. BRETT, JUDGE
United States District Court for the
Northern District of Oklahoma

APPROVED:


Sidney G. Dunagan
Attorney for Plaintiff


Richard J. Dent
Attorney for Defendant

United States District Court

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION FILE NO. 79-C-725-C

BARBARA BARNETT,

Plaintiff,

vs.

JUDGMENT

SCOVILL MANUFACTURING CORPORATION,
Hamilton Beach Division,

Defendant.

This action came on for trial before the Court and a jury, Honorable H. Dale Cook

Chief, United States District Judge, presiding, and the issues having been duly tried and the jury having duly rendered its verdict,

It is Ordered and Adjudged that judgment is entered for the Defendant, Scovill Manufacturing Corporation, and against the Plaintiff, Barbara Barnett, and that the Defendant recover of the Plaintiff its costs of this action.

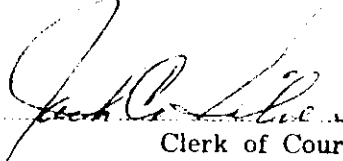
FILED

APR 22 1981

U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

Dated at Tulsa, Oklahoma
of April , 1981 .

, this 22nd day


Clerk of Court
Jack C. Silver

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHER DISTRICT OF OKLAHOMA

F I L E D

APR 22 1981

BRIAN KING and HELEN KING,

Plaintiff,

vs.

FARMERS COOPERATIVE
ASSOCIATION,

Defendant.

Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 78-C-287-E

ORDER OF DISMISSAL WITH PREJUDICE

Now on this 22nd day of April, 1981, comes on for hearing before me the undersigned judge, the Application of the parties hereto wherein the Court is advised that the parties have made settlement between themselves and the Plaintiff acknowledges receipt of the settlement consideration.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the above styled and numbered cause of action be and the same is hereby dismissed with prejudice.

S/ JAMES O. ELLISON

JUDGE OF THE DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 22 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

BOARD OF TRUSTEES OF PIPELINE
INDUSTRY BENEFIT FUND,

Plaintiff,

vs.

CURTIS PIPELINE CONSTRUCTION,

Defendant.

No. 81-C-147

ORDER OF DISMISSAL

NOW on this 22 day of April, 1981, plaintiff's Motion for Dismissal coming on for consideration and counsel for plaintiff herein representing and stating that all issues, controversies, debts and liabilities between the parties have been paid, settled and compromised;

IT IS THE ORDER OF THIS COURT that said action be, and the same is, hereby dismissed with prejudice to the bringing of another or future action by the plaintiff herein.

S/ THOMAS R. BRETT

JUDGE OF THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LAWRENCE BROWN,

Defendant.

APR 21 1981

Jack C. Smith, Clerk
U. S. DISTRICT COURT

CIVIL ACTION NO. 81-C-12-C

DEFAULT JUDGMENT

This matter comes on for consideration this 21st day of April, 1981, the Plaintiff appearing by Philard L. Rounds, Jr., Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Lawrence Brown, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Lawrence Brown, was personally served with Summons and Complaint on March 10, 1981, and that Defendant has failed to answer herein and that default has been entered by the Clerk of this Court.

The Court further finds that the time within which the Defendant could have answered or otherwise moved as to the Complaint has expired, that the Defendant has not answered or otherwise moved and that the time for the Defendant to answer or otherwise move has not been extended, and that Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover Judgment against Defendant, Lawrence Brown, for the principal sum of \$671.71 plus the accrued interest of \$257.65 as of December 4, 1980, plus interest at seven percent (7%) from December 4, 1980, until the date of Judgment, plus interest at the legal rate on the principal sum of \$671.71 from the date of Judgment until paid.

121 71 H. C. Smith
UNITED STATES DISTRICT JUDGE

UNITED STATES OF AMERICA
HUBERT H. BRYANT
United States Attorney
Philard L. Rounds, Jr.
PHILARD L. ROUNDS, JR.
Assistant U. S. Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

HAROLD J. COLVIN,)
)
Plaintiff,)
)
vs.)
)
STIFEL, NICOLAUS & COMPANY,)
INCORPORATED, a foreign)
corporation,)
)
Defendant and Third)
Party Plaintiff,)
)
vs.)
)
JOSEPH J. SPANIER,)
)
Third Party Defendant.)

No. 78-C-548-~~B~~E

FILED

APR 21 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

COMES NOW this Court and orders the above styled and numbered cause to be dismissed with prejudice as to the Third-party Defendant, Joseph J. Spanier. This dismissal is made pursuant to the agreement of all counsels of record in this matter.

S/ JAMES O. ELLISON,

JAMES O. ELLISON, JUDGE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT
OF OKLAHOMA

CERTIFICATE OF MAILING

I hereby certify that on this ____ day of April, 1981, a true and correct copy of the above and foregoing Order was mailed, with correct postage thereon prepaid, to Donald Bingham, 502 W. 6th, Tulsa, Oklahoma 74119, and Wesley Johnson, 1310 S. Denver, Tulsa, Oklahoma 74119.

M.C. Kratz, Jr.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE:

MODCO, INC., d/b/a
BERKEY INDUSTRIES, INC.,

Debtor,

PENN SQUARE BANK, N.A.,
a national banking association,

Plaintiff,

vs.

MODCO, INC., d/b/a
BERKEY INDUSTRIES, INC.,

Defendant,

RALPH GRABEL, Trustee,

Intervenor.

FILED

APR 21 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

Bankruptcy Case No. 80-01577

Adversary No. 81-0035

Misc. No. ~~M-959~~ 81-C-112-E ✓

O R D E R

This is an application arising out of a bankruptcy matter. Penn Square Bank has applied to this Court for leave to appeal an interlocutory order of the Bankruptcy Court. The sole question presented here, as it is cast by Penn Square, is whether "once a party has taken all of the formal steps necessary to conclude the presentation of a trial, but presented no evidence to support its claim, may the Court grant that party a second chance for a second trial with new pleadings and evidence, or must the Court resolve the case as the evidence, being closed, would indicate to the Court." Plaintiff's Application of March 23, 1981, at 4.

The circumstances surrounding this application are set out in detail in Penn Square's application, and will not be recounted here. The essence of the matter is that the Bankruptcy Court, after the conclusion of the trial of Penn Square's action to terminate automatic stay, did not rule on the question of preference presented by the Trustee's counterclaim. The notice of appeal states that the Bankruptcy Court reserved jurisdiction as to the Trustee's counterclaim, "ruling that further proceedings would be had prior to final presentation of that matter to the court for ruling."

Under 28 U.S.C. § 1334(b), this Court would have jurisdiction

over this appeal, upon the Court's granting of leave to Penn Square. Having examined the file, the above statute, and Interim Rule 8004, the Court concludes that Penn Square has proceeded properly in seeking this appeal. The question now is whether leave to appeal should be granted by this Court.

The Court agrees that the Bankruptcy Court's ruling reserving jurisdiction and not deciding the question of preference is indeed interlocutory. The statute is of little assistance in determining what standards are to be applied by this Court in deciding whether to grant leave to appeal. The Fifteenth Edition of Collier on Bankruptcy, volume 1, ¶ 3.03[7][d][v] states that the "closest analogue" to this situation is 28 U.S.C. § 1292(b), which governs appeals of interlocutory orders from the district courts to the courts of appeals. In discussing this question, the text states:

Less rigid standards for interlocutory appeals were prevalent under the regime of Section 24a of the Act. Although Section 24a granted an appeal from interlocutory orders in "proceedings in bankruptcy," as of right, that did not mean that every order entered in the course of the proceeding was appealable. Nevertheless, due regard for the efficiency of administration and dispatch of legal proceedings necessitated a common-sense interpretation of Section 24a that limited the right to appeal within reasonable bounds. If every order were reviewable, proceedings could easily be tied up and prolonged so that the situation would become intolerable.

It was clear that to be appealable an interlocutory order had to have the character of a formal exercise of judicial power affecting the asserted rights of the party; that is, it must have substantially determined some issue or decided some step in the course of the proceeding. At a bare minimum, the same will be true under the 1978 statute although, as discussed herein, the standard for appealability will undoubtedly be somewhat more rigorous than was the case under section 24a of the Act.

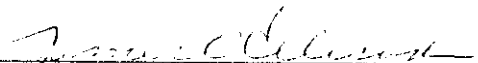
1 Collier on Bankruptcy (15th ed.) ¶ 3.03 at page 3-307, (emphasis added).

The order of the Bankruptcy Court herein cannot be said to have substantially determined any issue at all pertaining to the Trustee's counterclaim. The Bankruptcy Court has reserved jurisdiction on that matter, and has available to it the full range of judicial options.

This Court will not, at this point in time, act to restrict those choices. The entire matter will be reviewable in due course, including any decisions to allow a party to introduce additional evidence, if such a decision is made. Consideration of expense, conservation of judicial resources, and economy dictate that this application for leave to appeal be denied.

IT IS THEREFORE ORDERED that Plaintiff's Application for Leave to Appeal Interlocutory Order be, and the same hereby is, denied.

It is so Ordered this 21ST day of April, 1981.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CIVIL ACTION NO. 80-C-332-E ✓

HEARTBEATS, INC., a Defunct
Oklahoma Corporation; L. L.
SILVER d/b/a LITTERALS, INC.;
SOONER FEDERAL SAVINGS AND LOAN
ASSOCIATION, formerly Home Federal
Savings and Loan Association of
Tulsa, an Oklahoma Corporation;
MID-WEST MILL & SUPPLY CO., a
Division of MILLCREEK LUMBER &
SUPPLY CO., an Oklahoma Corpora-
tion; WILLIAM O. (DON) EVANS;
TULSA ADJUSTMENT BUREAU, INC.,
an Oklahoma Corporation; ANCHOR
PAINT MANUFACTURING COMPANY, an
Oklahoma Corporation; NORTH
AMERICAN INSURANCE AGENCY, INC.,
an Oklahoma Corporation; W. W.
GRAINGER, INC., an Illinois
Corporation; and JOHN F. CANTRELL,
County Treasurer of Tulsa County,
Oklahoma, and BOARD OF COUNTY
COMMISSIONERS OF TULSA COUNTY,
Defendants.

FILED

APR 31 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 21st day
of April, 1981, the Plaintiff appearing by Robert P. Santee,
Assistant United States Attorney for the Northern District of
Oklahoma, and the Defendant, Tulsa Adjustment Bureau, Inc., an
Oklahoma Corporation, appearing by its attorney, D. Wm. Jacobus, Jr.;
the Defendant, Sooner Federal Savings and Loan Association, formerly
Home Federal Savings and Loan Association of Tulsa, an Oklahoma
Corporation, appearing by its attorney, Thomas H. Trower; the
Defendant, North American Insurance Agency, Inc., an Oklahoma
Corporation, appearing by its attorney, Michael R. Vanderburg; the
Defendants, John F. Cantrell, County Treasurer of Tulsa County,
Oklahoma, and Board of County Commissioners of Tulsa County,

appearing by their attorney, John F. Reif, Assistant District Attorney; the Defendant, William O. (Don) Evans, appearing pro se; and Defendants, Heartbeats, Inc., a Defunct Oklahoma Corporation, L. L. Silver d/b/a Litterals, Inc., Mid-West Mill & Supply Co., a Division of Millcreek Lumber & Supply Co., an Oklahoma Corporation, Anchor Paint Manufacturing Company, an Oklahoma Corporation, and W. W. Grainger, Inc., an Illinois Corporation, appearing not.

The Court being fully advised and having examined the file herein finds that Defendants, Heartbeats, Inc., a Defunct Oklahoma Corporation, L. L. Silver d/b/a Litterals, Inc., Mid-West Mill & Supply Company, a Division of Millcreek Lumber & Supply Company, an Oklahoma Corporation, North American Insurance Agency, Inc., an Oklahoma Corporation, W. W. Grainger, Inc., an Illinois Corporation, John F. Cantrell, County Treasurer of Tulsa County, Oklahoma, and Board of County Commissioners of Tulsa County, were served with Summons and Complaint on June 13, 1980; that Defendants, Sooner Federal Savings & Loan Association formerly Home Federal Savings & Loan Association of Tulsa, an Oklahoma Corporation, and Tulsa Adjustment Bureau, Inc., an Oklahoma Corporation, were served with Summons and Complaint on June 16, 1980; that Defendant, Anchor Paint Manufacturing Company, an Oklahoma Corporation, was served with Summons and Complaint on June 17, 1980; and, that Defendant, William O. (Don) Evans, was served with Summons and Complaint on November 24, 1980, all as appears on the United States Marshal's Services herein.

It appearing that the Defendant, Sooner Federal Savings & Loan Association formerly Home Federal Savings & Loan Association of Tulsa, an Oklahoma Corporation, has duly filed its Disclaimer herein on July 1, 1980; that Defendant, Tulsa Adjustment Bureau, Inc., an Oklahoma Corporation, has duly filed its Disclaimer herein on June 23, 1980; that Defendant, William O. (Don) Evans, has duly filed his Disclaimer herein on December 4, 1980; that Defendants, John F. Cantrell, County Treasurer of Tulsa County, Oklahoma, and

Board of County Commissioners of Tulsa County, have duly filed their Answers herein on July 3, 1980; that Defendant, North American Insurance Agency, Inc., an Oklahoma Corporation, has duly filed its Answer herein on July 18, 1980; and that Defendants, Heartbeats, Inc., a Defunct Oklahoma Corporation, L. L. Silver d/b/a Litterals, Inc., Mid-West Mill & Supply Company, a Division of Millcreek Lumber & Supply Company, an Oklahoma Corporation, Anchor Paint Manufacturing Company, an Oklahoma Corporation, and W. W. Grainger, Inc., an Illinois Corporation, have failed to answer herein and that default has been entered by the Clerk of this Court.

FIRST CAUSE OF ACTION

The Court further finds that this is a suit based upon a promissory note and foreclosure on a real estate mortgage and corrected real estate mortgage securing said promissory note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

The West 119.3 feet of Lot Four (4), Block One (1), Lynn Lane Estates, Addition of Tulsa County, Oklahoma, according to the recorded plat thereof, being a part of the Northeast Quarter (NE/4) of Section 11, Township 19 North, Range 14 East.

That the Defendant, Heartbeats, Inc., did, execute and deliver to the Bank of Oklahoma, N.A., formerly National Bank of Tulsa its certain promissory note and real estate mortgage on August 4, 1975, (Exhibits A and B of Plaintiff's Complaint), and its corrected real estate mortgage on February 24, 1976, (Exhibit C of Plaintiff's Complaint), in the sum of \$60,000.00 with interest at the rate of 10 1/4 percent per annum, and further providing for the payment of monthly installments of principal and interest.

THAT by Assignments of Mortgages of Real Estate dated March 29, 1977, and filed on June 17, 1977, (Exhibits D and E of Plaintiff's Complaint), Bank of Oklahoma, N.A., formerly National Bank of Tulsa, assigned said note, mortgage and corrected mortgage to the Small Business Administration, an agency and instrumentality of the United States Government.

The Court further finds that Defendant, Heartbeats, Inc., made default under the terms of the aforesaid promissory note by reason of its failure to make monthly installments due thereon, which default has continued and that by reason thereof the above-named Defendant is now indebted to the Plaintiff in the principal sum of \$52,903.59, together with interest accrued thereon to February 23, 1981, of \$14,230.62, and interest accruing thereafter at the rate of \$15.07 per day, until paid, plus the costs of this action accrued and accruing.

SECOND CAUSE OF ACTION

The Court further finds that this is a suit based upon a promissory note and foreclosure on a real estate mortgage securing said promissory note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

The West 119.3 feet of Lot Four (4), Block One (1), Lynn Lane Estates, Addition of Tulsa County, Oklahoma, according to the recorded plat thereof, being a part of the Northeast Quarter (NE/4) of Section 11, Township 19 North, Range 14 East.

That the Defendant, Heartbeats, Inc., did execute and deliver to Small Business Administration its certain promissory note and real estate mortgage on July 16, 1976, (Exhibits F and G of Plaintiff's Complaint), in the sum of \$25,000.00 plus interest at the rate of 6 5/8 percent per annum, and further providing for the payment of monthly installments of principal and interest.

The Court further finds that Defendant, Heartbeats, Inc., made default under the terms of the aforesaid promissory note by reason of its failure to make monthly installments due thereon, which default has continued and that by reason thereof the above-named Defendant is now indebted to the Plaintiff in the principal sum of \$25,000.00 together with interest accrued thereon to February 23, 1981, of \$7,572.74, and interest accruing thereafter at the rate of \$4.60 per day, until paid, plus the cost of this action accrued and accruing.

The Court further finds that Defendant, North American Insurance Agency, Inc., an Oklahoma Corporation, is entitled to judgment against Defendant, Heartbeats, Inc., in the amount of \$4,227.63, plus pre-judgment interest in the amount of \$902.82, an attorney's fee in the amount of \$1,500.00, post-judgment interest, and costs of the action, but that such judgment would be subject to and inferior to the first mortgage lien of the Plaintiff herein.

The Court further finds that there is due and owing to the County of Tulsa, State of Oklahoma, from Defendant, Heartbeats, Inc., a Defunct Oklahoma Corporation, the sum of \$1826.00 plus interest according to law for real estate taxes for the years 1977-1979 and that Tulsa County should have judgment, in rem, for said amount, and that such judgment is superior to the first mortgage lien of the Plaintiff herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against Defendant, Heartbeats, Inc., in personam, for the principal sum of \$52,930.59 together with interest accrued thereon to February 23, 1981, of \$14,230.62, and interest accruing thereafter at the rate of \$15.07 per day, until paid; and, for the principal sum of \$25,000.00 together with interest accrued thereon to February 23, 1981, of \$7,572.74, and interest accruing thereafter at the rate of \$4.60 per day, until paid; plus the costs of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, North American Insurance Agency, Inc., an Oklahoma Corporation, have and recover judgment, in personam, against the Defendant, Heartbeats, Inc., in the amount of \$4,227.63, plus pre-judgment interest in the amount of \$902.82, an attorney's fee in the amount of \$1,500.00, post-judgment interest and costs

of this action, but that such judgment is subject to and inferior to the first mortgage liens of the Plaintiff herein.

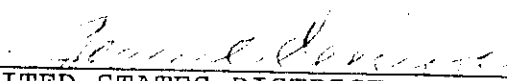
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the County of Tulsa have and recover judgment, in rem, against Defendant, Heartbeats, Inc., for the sum of \$ 1826.00 as of the date of this judgment plus interest thereafter according to law for real estate taxes and that such judgment is superior to the first mortgage liens of the Plaintiff herein.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment, in rem, against Defendants, L. L. Silver d/b/a Litterals, Inc., Mid-West Mill & Supply Co., a Division of Millcreek Lumber & Supply Co., an Oklahoma Corporation, Anchor Paint Manufacturing Company, an Oklahoma Corporation, and W. W. Grainger, Inc., an Illinois Corporation.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant to satisfy Plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property, which sale shall be subject to the tax judgment of Tulsa County, supra, and apply the proceeds as follows:

1. To the payment of all costs of this action, including all costs of foreclosure sale, abstracting, and other expenses incurred therein.
2. To the payment of any unpaid real estate ad valorem taxes constituting a lien upon the described real property.
3. To the satisfaction of Plaintiff's First Cause of Action.
4. To the satisfaction of Plaintiff's Second Cause of Action.
5. To North American Insurance Agency, Inc., an Oklahoma Corporation, in the amount of \$4,227.63, plus pre-judgment interest in the amount of \$902.82, an attorney's fee in the amount of \$1,500.00, post-judgment interest and costs.
6. The residue, if any, to be paid to the Clerk of this Court to await further order of the Court.


IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the Defendants, and each of them and all persons claiming under them since the filing of the Complaint herein be and they are forever barred and foreclosed of any right, title, interest, or claim in or to the real property or any part thereof.



UNITED STATES DISTRICT JUDGE

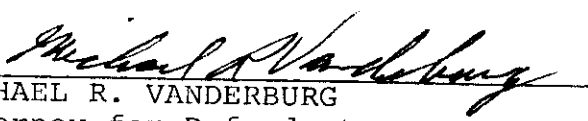
APPROVED:

UNITED STATES OF AMERICA

HUBERT H. BRYANT
United States Attorney

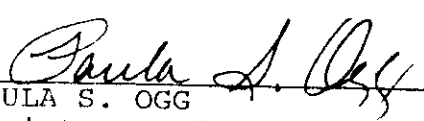

ROBERT P. SANTEE
Assistant United States Attorney


Assistant District Attorney
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Tulsa County


MICHAEL R. VANDERBURG
Attorney for Defendant,
North American Insurance
Agency, Inc.

UNITED STATES OF AMERICA

HUBERT H. BRYANT
United States Attorney


PAULA S. OGG
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

PAUL R. SMITH, Jr.,)
)
 Plaintiff,)
)
vs.)
)
WILLIAM K. WALKER,)
)
 Defendant.)

No. 80-C-226-C ✓

FILED

APR 20 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT

Now on this 20th day of April, 1981, this matter comes on for trial pursuant to regular setting of the docket. The Plaintiff appears in person and by his attorney of record, Lance Stockwell. The Defendant appears not. The Court finds that the Defendant has instructed his attorneys of record to take no further action in this matter on his behalf and has authorized his attorneys to apply for leave to withdraw. By separate Order, the Court has granted the Application For Leave to Withdraw filed herein.

The Plaintiff waives a trial by jury as to all matters properly triable before a jury and the case proceeds to trial. After taking evidence and reviewing the agreed Amended Pre-Trial Order and other pleadings, the Court finds:

1. Plaintiff is an individual residing in Tulsa, Oklahoma and is a citizen of the State of Oklahoma.
2. Defendant is an individual residing in Kansas City, Missouri and is a citizen of the State of Missouri.
3. The amount in controversy is in excess of the sum of \$10,000, exclusive of interest and costs.
4. Jurisdiction is availing in this court pursuant to the provisions of 28 USC §1332(a)(1) and venue is proper in this court under the provisions of 28 USC §1391(a).
5. On November 6, 1979, Paul Smith ("Smith"), Plaintiff herein, sold improved land ("the premises") and stock to William K. Walker ("Walker"), Defendant herein. The sale was pursuant to a contract and was closed on November 6, 1979, with the exception of the sale of the premises. Under the terms of the agreement of November 6, 1979, ("the November 6th agreement") Walker agreed to pay a purchase price of \$229,000 for the premises. Attached to this Judgment is a legal description of the premises which is marked as Exhibit "A".

6. Walker has been in possession of the premises since the closing on November 6, 1979.

7. The shares sold and delivered to Walker were all of the outstanding shares of TBX, Inc., which is a local contract freight carrier. The building on the premises is designed as a terminal, and the business of TBX is operated out of it.

8. The November 6th agreement scheduled the closing of the sale of the premises for February 5, 1980. That date was postponed by agreement to February 21, 1980. In consideration of the agreed postponement, Walker made a partial payment to Smith of \$29,000 on the purchase price.

9. On February 21, 1980, Walker failed and refused to pay the balance due of \$200,000 of the original purchase price. That refusal has continued to date.

10. On February 21, 1980, Smith was ready, willing and able to deliver a general warranty deed conveying good and marketable title to Walker, or his designee or nominee, in accordance with the terms of the November 6th agreement.

11. Since February 21, 1980, to the day of this judgment, April 20, 1981, Plaintiff has been ready, willing and able to deliver a general warranty deed conveying good and marketable title to Walker, upon payment to Smith of the balance due on the purchase price for the premises. Walker, however, has failed and refused, throughout the entire period of February 21, 1980, through April 20, 1981, to pay the said balance due.

12. Plaintiff has suffered monetary injury as a result of Walker's refusal to pay the balance due and close the sale of the premises, as agreed. The items of damages and their amounts are as follows:

<u>Description</u>	<u>Amount</u>
Contract Price	\$229,000.00
Interest on Indebtnesses to have been paid from contract proceeds	25,176.85
Interest lost on assets pledged for said indebttnesses	8,196.47
Interest lost on equity balance after payment of said indebttnesses	10,932.11
Past due amounts - other agreements	3,490.00
Attorneys' fees incurred	20,000.00
Ad Valorem Taxes Paid	363.47
TOTAL	\$297,658.90

Less: Amount received on purchase price	\$29,000.00
Amounts received in lieu of rent	<u>13,455.00</u>
Total Damages - Net	<u>\$254,703.90</u>

13. In an appraisal prepared for Walker by Troy K. Dumas the fair market value of the premises, as of February 21, 1980, was fixed at \$195,000 and its fair rental value at \$2,000 per month. The Court will accept those values for the purposes of this judgment. Should Walker not specifically perform, as ordered below, Smith is entitled to recover the difference between the balance due of \$200,000 and \$195,000 or \$5,000.

14. During the time Walker has been in possession of the premises its condition has deteriorated more rapidly than would have occurred under conditions of normal wear and tear. In order to restore the premises to that condition in which it would have been, assuming normal wear and tear, will require the expenditure of \$10,000.

15. Among the provisions of the November 6th agreement was the promise by Walker to assume the obligation of TBX to the Fourth National Bank of Tulsa under a note dated March 23, 1979 in the principal sum of \$25,000, plus accrued interest. On March 17, 1981, the Fourth National Bank of Tulsa made demand of Walker for payment of the said note in full. As of April 20, 1981, Walker has not honored that demand. Should Walker fail to pay the balance due on the said note, and should the Fourth National Bank of Tulsa make additional demands, Smith may be liable thereon as a guarantor.

CONCLUSIONS OF LAW

1. The Court has jurisdiction of the subject matter and the parties herein because of the diversity of citizenship between them and the jurisdictional amount.

2. Any Finding of Fact herein which might be properly characterized as a Conclusion of Law is incorporated as though fully set out.

3. A seller of land may obtain specific performance of a contract for the sale of realty, even though the effect of the decree he seeks is the payment of the purchase price. Kendell v. Hastings, 198 P.2d 998 (Okla. 1948). Where the contract sought to be specifically performed deals with realty, the right to obtain it does not depend upon the inadequacy of a legal remedy. Kendall v. Hastings, supra.

4. Where a specific performance is decreed, there should be an accounting between the parties so as to place them as near as possible in a position as that to which they would have been, assuming the contract had been performed as agreed. Smith v. Owen, 397 673 (Okla. 1963). In order to do that it is necessary to award damages to Plaintiff for each of the items listed in the findings above, each of which items represent monetary losses which Smith would not have incurred had Walker performed as agreed.

IT IS THEREFORE ORDERED ADJUDGED AND DECREED, that the parties specifically perform the November 6th contract, by Defendant paying to Plaintiff the sum of \$200,000.00 and, upon such payment, by Plaintiff delivering a general warranty deed to Defendant, or his designee or nominee.

IT IS FURTHER ORDERED, that should Defendant fail to specifically perform, as ordered, by May 24, 1981, then, and in that event, Defendant is ordered to vacate the premises and surrender the possession thereof to Plaintiff or his agent, designee or nominee, no later than May 29, 1981. Upon Defendant's failure to specifically perform as ordered, all right, title and interest which he may have in the premises, by virtue of the November 6th contract, or otherwise, shall be deemed null and void and shall be deemed to have ceased to exist as of May 24, 1981.


IT IS FURTHER ORDERED, that in any event Plaintiff have judgment against Defendant in the amount of \$54,703.90, plus an additional judgment in an amount equal to the sum of \$48.21 per day, accruing daily until Defendant has specifically performed, as ordered, or May 24, 1981, whichever is earlier.

IT IS FURTHER ORDERED, in the event Walker fails to specifically perform, as ordered, that Plaintiff shall have an additional judgment against Defendant in the amount of \$15,000.00, for loss in rental value and deterioration of the premises.

IT IS FURTHER ORDERED, that Plaintiff have judgment against Defendant in the amount of \$25,000.00; provided, however, such judgment shall be deemed null, void, and unenforceable should Walker pay, prior to May 24, 1981, such amount to the Fourth National Bank and Trust Company pursuant to their demand of March 17, 1981.

IT IS FURTHER ORDERED, that each and all of the judgments awarded above shall bear interest at the rate of 12% per annum and shall include an additional amount equal to the costs of the action.

Given under my hand this ²⁰~~24~~th day of April, 1981.


CHIEF UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

APR 17 1981

Jack [unclear]
U. S. DISTRICT COURT

UNITED STATES OF AMERICA and
LARRY GARNER, Special Agent,
Internal Revenue Service,

Petitioners,

vs.

No. 81-C-65-E

PERSON TO PERSON FINANCIAL
CENTER and JERRY KURTZ,

Respondents.

ORDER DISCHARGING RESPONDENTS
AND DISMISSAL

On this 17th day of April, 1981, Petitioners' Motion to Discharge Respondents and for Dismissal came for hearing and the Court finds that Respondents have now complied with the Internal Revenue Service Summons served upon them October 14, 1980, that further proceedings herein are unnecessary and that Respondents, Person to Person Financial Center and Jerry Kurtz, should be discharged and this action dismissed.

IT IS THEREFORE ORDERED, ADJUGED, AND DECREED BY THE COURT that the Respondents, Person to Person Financial Center and Jerry Kurtz, be and they are hereby discharged from any further proceedings herein and this cause of action and Complaint are hereby dismissed.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

FILED

UNITED STATES DISTRICT COURT FOR THE APR 17 1981
NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,	)	CIVIL ACTION NO. 79-C-86-E
)	
vs.	)	Tract No. 242
)	
30.00 Acres of Land, More or	)	All interests in the estate
Less, Situate in Washington	)	taken <u>except</u> the oil and gas
County, State of Oklahoma, and	)	leasehold interest.
Jesse J. Goodman, et al., and)	
Unknown Owners,)	
)	
Defendants.	)	(Included in D.T. filed in Master File #400-14)

J U D G M E N T

1.

NOW, on this 17th day of April, 1981, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment on a stipulation of the parties agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the parties, finds:

2.

This judgment applies to the entire estate condemned in Tract No. 242, as such estate and tract are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this case.

5.

The Acts of Congress set out in paragraph 2 of the Complaint herein give the United States of America the right, power and authority to condemn for public use the property described in such Complaint. Pursuant thereto, on February 13, 1979,

the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing the Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court, as estimated compensation for the taking of a certain estate in subject property a certain sum of money, and all of this deposit has been disbursed, as set out below in paragraph 12.

7.

The defendants named in paragraph 12 as owners of the subject property are the only defendants asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendants were, as of the date of taking, the owners of the subject property and, as such, are entitled to receive the just compensation awarded by this judgment.

8.

The owners of the subject tract and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject tract is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for the estate taken in subject tract and the amount fixed by the Stipulation As To Just Compensation, and the amount of such deficiency should be deposited for the benefit of the owners. Such deficiency is set out in paragraph 12 below.

10.

It Is, Therefore, ORDERED, ADJUDGED, and DECREED that the United States of America has the right, power and authority

to condemn for public use the tract listed in paragraph 2 herein, as such tract is particularly described in the Complaint filed herein; and such tract, to the extent of the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of February 13, 1979, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such estate.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owners of the estate condemned herein in subject tract were the defendants whose names appear below in paragraph 12, and the right to receive the just compensation for the estate taken herein in such tract is vested in the parties so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation mentioned in paragraph 8 above hereby is confirmed; and the sum thereby fixed is adopted as the award of just compensation for the estate condemned in subject tract as follows:

<u>TRACT NO. 242</u>		
(Lessor Interest Only)		
OWNERS: Rosa Wilson Goodman and Marie Arnold Matthews		
Award of Just Compensation pursuant to Stipulation -----	\$40,000.00	\$40,000.00
Deposited as Estimated Compensation ---	14,475.00	
Disbursed to Owners -----		<u>14,475.00</u>
Balance Due to Owners -----		<u>\$25,525.00</u>
Deposit Deficiency -----	\$25,525.00	


13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court in this civil action, to the credit of subject tract, the

deposit deficiency, in the sum of \$25,525.00, and the Clerk of this Court then shall disburse the deposit for such tract as follows:

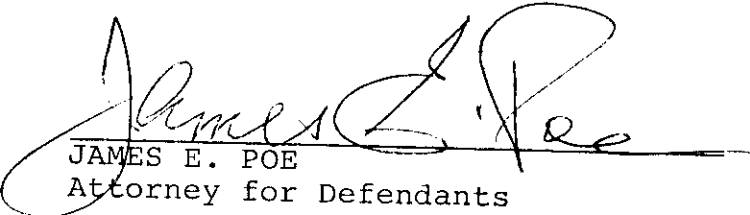
To:

Rosa Wilson Goodman and
Marie Arnold Matthews, jointly ----- \$25,525.00.


UNITED STATES DISTRICT JUDGE

APPROVED:


HUBERT A. MARLOW
Assistant United States Attorney


JAMES E. POE
Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 17 1981

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

SUN OIL COMPANY OF PENNSYLVANIA,
A Corporation,

Defendant.

Jack C. Silver, Clerk
U. S. DISTRICT COURT

CIVIL ACTION NO.

74-C-474 - EV

ORDER OF DISMISSAL

The Plaintiff, Equal Employment Opportunity Commission, and the Defendant, Sun Oil Company of Pennsylvania, have entered into a Stipulation which resolves in full all of the issues in this case and have agreed that this action may be dismissed with prejudice and without costs, or attorneys' fees taxed to either party.

It is therefore

ORDERED, ADJUDGED and DECREED that the above styled and numbered cause be, and it is hereby dismissed with prejudice and without costs, or attorneys' fees, taxed to either party.

Dated this 17TH day of April, 1980.

James O. Silver
United States District Judge

Approved as to Form and Content:

Attorneys for Plaintiff:

Caruthers Berger
CARUTHERS BERGER
Supervisory Trial Attorney

James F. Gruben
JAMES F. GRUBEN
Supervisory Trial Attorney

Attorneys for Defendant:

Nancy J. Gellman
NANCY J. GELLMAN
Pepper, Hamilton & Scheetz
2001 The Fidelity Building
123 South Broad Street
Philadelphia, PA 19109

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 16 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

TINA LOUISE HEWLING,

Plaintiff,

vs.

No. 80-C-464-C

ETHICON, INC., and
JOHNSON & JOHNSON, INC.,

Defendants.

Stipulation of
DISMISSAL WITH PREJUDICE

COMES NOW the Plaintiff, Tina Lousie Hewling, and dismisses
this cause with prejudice to the right to the bringing of any
other furture action.

Tina Louise Hewling
Plaintiff

A. J. [unclear] [unclear]
Attorney for Plaintiff

*Dec. M. M. [unclear]
Attly for [unclear]*

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 16 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

HARRY W. GRAVES, JR., and)
MARJORIE J. GRAVES,)
)
Plaintiffs,)
)
vs.)
)
SEARS, ROEBUCK AND CO.,)
)
Defendant.)

No. 79-C-714-E

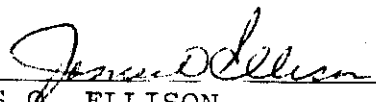
CORRECTED JUDGMENT TO INCLUDE PRE-JUDGMENT INTEREST

This action came on for trial before the Court and a Jury, Honorable James O. Ellison, United States District Judge, presiding, and the issues having been duly tried and the jury having duly rendered its verdicts,

It is Ordered and Adjudged that having found in favor of the Plaintiff Harry W. Graves, Jr. and against the Defendant, assesses damages in the sum of \$189,570.00. Plaintiff to be awarded cost of action and interest at the rate of 10% per annum from date of filing to date of judgment in amount of \$21,814.80.

It is Further Ordered and Adjudged that having found in favor of the Defendant, the Plaintiff Marjorie J. Graves take nothing.

Dated at Tulsa, Oklahoma, this 16th day of April,
1981.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

LEASE LIGHTS, INC., et al,)
)
 Plaintiffs,)
)
vs.)
)
PUBLIC SERVICE COMPANY OF)
OKLAHOMA, a corporation,)
)
 Defendant.)

NO. 77-C-417-E

FILED

APR 16 1981

Jack C. Silver, Clerk
U.S. DISTRICT COURT

J U D G M E N T

This action came on for trial before the Court and a jury, Honorable James O. Ellison, District Judge, presiding. The court, on motion of the defendant, directed a verdict for the defendant against the plaintiffs.

IT IS ORDERED AND ADJUDGED that plaintiffs take nothing by their action.

DATED THIS 16th day of April, 1981.

S/ JAMES O. ELLISON

JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

PUBLIC SERVICE COMPANY
OF OKLAHOMA, INC.

Plaintiff,

vs.

INGERSOLL-RAND COMPANY,

Defendant.

No. 79-C-209-E

FILED

APR 16 1981

ORDER OF DISMISSAL

Jack C. Silver, Clerk
U. S. DISTRICT COURT

Upon the Application of Plaintiff, Public Service Company of Oklahoma, IT IS ORDERED that the above-captioned case be dismissed with prejudice to its refiling, for the reason that the parties have fully settled their claims therein.

S/ JAMES O. ELLISON

District Court Judge

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

F I L E D

APR 16 1981

WILMA L. HINES,

Plaintiff,

vs.

THERMA-TECHNOLOGY, INC.,
a Delaware corporation,

Defendant.

)
)
)
)
)
)
)
)
)
)

Jack C. Silver, Clerk
U. S. DISTRICT COURT

CASE NO. 80-C-180-E

ORDER OF DISMISSAL WITH PREJUDICE

It appearing to the Court that the Plaintiff and Defendant have compromised and settled all matters in dispute between them and have requested that the Court dismiss the above entitled and numbered action with prejudice, and the Court has determined there is no reason why this should not be done, and,

IT IS HEREBY ORDERED that the above entitled and numbered action be, and the same is, hereby dismissed with prejudice to the reassertion of the same or any part thereof.


SIGNED and ENTERED on this 16th day of

April, 1981.

S/ JAMES C. ELKON

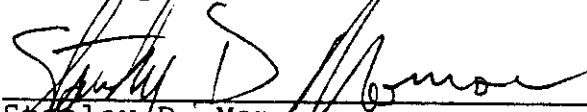
United States District Judge

APPROVED:



Jon Patterson Bond
Hall, Estill, Hardwick, Gable,
Collingsworth & Nelson
4100 Bank of Oklahoma Tower
One Williams Center
Tulsa, Oklahoma 74172

Attorneys for Defendant



Stanley D. Monroe
250 Law Building
500 W. 7th Street
Tulsa, Oklahoma 74119

Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

Jack C. Sylvet, Clerk
U. S. DISTRICT COURT

VS.

JOSEPH E. MOUNTFORD,

Defendant.

CIVIL ACTION NO. 81-C-105-E

This cause coming on to be heard upon the Motion of the Plaintiff for a Default Judgment for the relief demanded in the Complaint, and it appearing to the Court that the time within which the Defendant could have answered or otherwise moved as to the Complaint has expired, that the Defendant has not answered or otherwise moved and that the time for the Defendant to answer or otherwise move has not been extended, and that Plaintiff is entitled to Judgment as a matter of law,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Plaintiff recover from Defendant the sum of \$3,946.43 plus interest from January 1, 1980, until paid and costs in the first cause of action; the sum of \$3,093.35 plus interest from January 1, 1980, until paid and costs in the second cause of action; the sum of \$3,946.43 plus interest from January 1, 1981, until paid and costs in the third cause of action; and, the sum of \$3,093.35 plus interest from January 1, 1981, until paid and costs in the fourth cause of action.

James L. ...
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

FILED

PATRICIA A. YOUNG,
Plaintiff,
-vs-
FARMERS INSURANCE GROUP,
Defendant.

APR 16 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

NO. 80-C-40-E

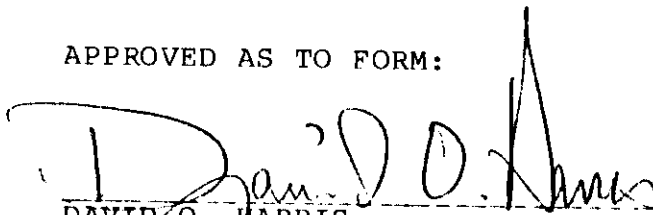
ORDER OF DISMISSAL

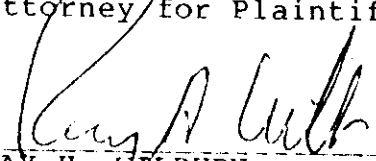
On this 16th day of April, 1981, upon the written application of the parties for a Dismissal with Prejudice of the Complaint and all causes of action, the Court having examined said application, finds that said parties have entered into a compromise settlement covering all claims involved in the Complaint and have requested the Court to dismiss said Complaint with prejudice to any future action, and the Court being fully advised in the premises, finds that said Complaint should be dismissed pursuant to said application.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the Complaint and all causes of action of the plaintiff filed herein against the defendant be and the same hereby is dismissed with prejudice to any future action.


JUDGE OF THE UNITED STATES DISTRICT
COURT, NORTHERN DISTRICT

APPROVED AS TO FORM:


DAVID O. HARRIS
Attorney for Plaintiff


RAY H. WILBURN
Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 16 1981 *pt*

Jack [unclear]
U. S. DISTRICT COURT

CHAMPION FINANCIAL CORP.,)
a California corporation,)
)
Plaintiff,)
)
vs.)
)
THE MARINA LIMITED, an)
Oklahoma limited partnership,)
)
Defendant.)

No. 77-C-526-C ✓

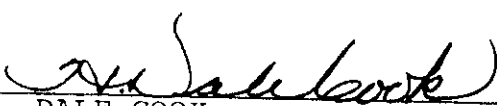
J U D G M E N T

Pursuant to the Findings of Fact and Conclusions of Law filed simultaneously herein, it is hereby ordered that judgment be entered for the plaintiff and against the defendant. Further, it is hereby adjudged, decreed, and ordered that the plaintiff herein be awarded specific performance of the contract of August 5, 1977 for the sale of The Marina Apartments, Tulsa, Oklahoma, more particularly described as follows:

Lots 2 and 3 of Block 39 and Lots 1, 2, and 3 of Block 40, Longview Lake Estates, a subdivision of a part of the West half (W/2) of the Northwest quarter (NW/4) of Section 18, Township 19 North, Range 14 East and part of the East half (E/2) of the East half (E/2) of the Northeast quarter (NE/4) of Section 13, Township 19 North, Range 13 East of the Indian base and meridian in the City of Tulsa, County of Tulsa, State of Oklahoma. A portion of Community Development Plan no. 21.

It is further ordered that the Magistrate of this Court, sitting as a referee, shall ascertain and report any compensation due to the plaintiff for special or consequential losses resulting from defendant's refusal to convey the property at the time specified; and that the defendant be charged with the same.

It is so Ordered this 15 day of April, 1981.


H. DALE COOK
Chief Judge, U. S. District Court

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
vs.)
)
FIRST NATIONAL BANK & TRUST)
COMPANY OF TULSA,)
)
Defendant.)

No. 77-C-198-BT ✓

FILED

APR 10 1981 *JS*

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER OF DISMISSAL

The parties having filed herein a Settlement Agreement and a Motion to Dismiss jointly requesting that this action be dismissed with prejudice, and the Court being fully advised, it is

ORDERED, that this cause be and the same is hereby dismissed with prejudice, without costs to either party.

ENTERED this 10th day of April, 1981.

Thomas R. Brett
THOMAS R. BRETT
Judge for the
United States District Court
for the Northern District
of Oklahoma

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 10 1981

Jack M. Silver, Clerk
U. S. DISTRICT COURT

AMERICAN MOTORISTS INSURANCE
COMPANY,

Plaintiff,

v.

No. 79-C-51-E

COMFORT FURNITURE, INC., an
Oklahoma Corporation;
BANK OF COMMERCE OF TULSA,
an Oklahoma corporation;
UNION NATIONAL BANK OF TULSA,
an Oklahoma Corporation,
Defendants.

ORDER OF DISMISSAL


NOW, on this 10 day of April, 1981, the above
styled and numbered cause of action coming on for hearing
before the undersigned Judge, upon the Stipulation for
Dismissal of the Plaintiff and of Defendant, Comfort Furniture,
Inc., herein; and the Court having examined the pleadings
and said Stipulation for Dismissal and being well and fully
advised in the premises, finds that said Complaint and Cross-
Claim should be dismissed with prejudice.

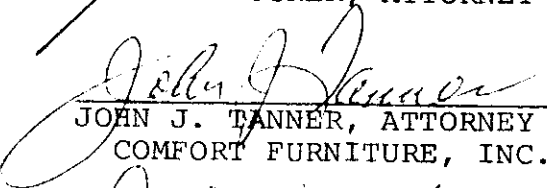
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the
Court that the above styled and numbered cause be and the
same is hereby dismissed with prejudice as to both Complaint
and Cross-Claim.

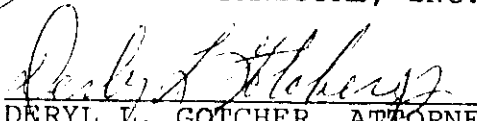
S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

APPROVED:


JOHN H. TUCKER, ATTORNEY FOR PLAINTIFF


JOHN J. TANNER, ATTORNEY FOR DEFENDANT
COMFORT FURNITURE, INC.


DERYL L. GOTCHER, ATTORNEY FOR DEFENDANT,
COMFORT FURNITURE, INC.

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

BOARD OF TRUSTEES OF THE PLUMBERS)
AND PIPEFITTERS NATIONAL PENSION)
FUND; BOARD OF TRUSTEES OF THE)
HEALTH AND WELFARE FUND OF THE)
PLUMBERS AND PIPEFITTERS LOCAL)
UNION 205, Tulsa, Oklahoma;)
BOARD OF TRUSTEES OF THE TULSA)
PIPE TRADES TRAINING SCHOOL)
APPRENTICESHIP FUND,)

Plaintiffs,)

vs.)

WOOLBRIGHT EQUIPMENT, INC.,)
an Arkansas corporation,)

Defendant.)

No. 80-C-673-E

FILED

APR 10 1981

Jack D. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT BY DEFAULT

This matter comes on before me, the undersigned Judge, upon the Application of the Plaintiffs' attorney, Harry H. Goldman, for a Default Judgment upon the grounds that the Defendant failed to answer or otherwise plead to the Complaint filed herein as required by law.

The Court finds that the Defendant was duly served with summons in this cause and is wholly in default herein; and that the Plaintiffs should have judgment as prayed for in their Complaint filed herein.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiffs be, and are hereby, awarded a judgment of and from the said Defendant in the principal sum of \$632.49 plus interest at the statutory rate from March 1, 1980 until the date of judgment and thereafter at twelve percent (12%) per annum until paid in full and costs in the amount of \$68.20 plus reasonable attorney fees in the amount of \$1,000.00.

DATED this 10th day of April, 1981.

S/ JAMES O. ELLISON

Judge James O. Ellison

IN THE UNITED STATES DISTRICT COURT WITHIN AND FOR THE
NORTHERN DISTRICT OF OKLAHOMA

DIANE RATEKIN,)
)
Plaintiff,)
)
vs.) No. 80-C-704-E
)
SAM TANKSLEY TRUCKING, INC.; JIM)
McCLINTOCK; and JERRY LYNN HULL,)
)
Defendants.)

FILED

APR 10 1981

Jack H. S. S. S. S.
U. S. DISTRICT COURT

ORDER OF DISMISSAL

Now on this 31st day of March, 1981, this matter came on for hearing on the disposition docket of the Honorable James O. Ellison. That presiding was Magistrate Robert Risley and pursuant to his oral order, this cause is dismissed as to the Defendant, Jerry Lynn Hull.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the above captioned matter is dismissed as to the Defendant, Jerry Lynn Hull.

S/ JAMES O. ELLISON

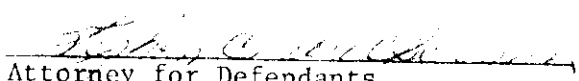
UNITED STATES DISTRICT COURT JUDGE

APPROVALS:

JEFFERSON G. GREER,


Attorney for Plaintiff

STEPHEN C. WILKERSON,


Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 10 1991

60

Jack C. Smith, Clerk
U. S. DISTRICT COURT

IAN SINGER,

Plaintiff,

vs.

LOFFLAND BROTHERS COMPANY,

Defendant.

No. 80-C-84-E

O R D E R

The Court now has before it for consideration Defendant's Motion to Dismiss under the doctrine of forum non conveniens.

Jurisdiction of this action is grounded upon diversity of citizenship. Plaintiff alleges that he was and is a citizen of the United Kingdom, residing in Scotland, and that he sustained an injury while working on a drilling rig located in the North Sea. Plaintiff alleges that Defendant, a corporation with its principal place of business in Tulsa, Oklahoma, was in charge of the operation of the rig, and that its negligence was the cause of Plaintiff's injuries.

In Gulf Oil Corp. v. Gilbert, 330 U.S. 501, 67 S.Ct. 839 (1947) the Supreme Court discussed the factors to be considered in deciding a forum non conveniens motion:

If the combination and weight of factors requisite to given results are difficult to forecast or state, those to be considered are not difficult to name. An interest to be considered, and the one likely to be most pressed, is the private interest of the litigant. Important considerations are the relative ease of access to sources of proof; availability of compulsory process for attendance of unwilling, and the cost of obtaining attendance of willing, witnesses; possibility of view of premises, if view would be appropriate to the action; and all other practical problems that make trial of a case easy, expeditious and inexpensive. There may also be questions as to the enforceability of a judgment if one is obtained. The court will weigh relative advantages and obstacles to fair trial. It is often said that the plaintiff may not, by choice of an inconvenient forum, "vex," "harass," or "oppress" the defendant by inflicting upon him expense or trouble not necessary to his own right to pursue his remedy. But unless the balance is strongly in favor of the defendant, the plaintiff's choice of forum should rarely be disturbed.

Factors of public interest also have place in applying the doctrine. Administrative difficulties follow for courts when litigation is piled up in congested centers instead of being handled at its origin. Jury duty is a burden that ought not to be imposed upon the people of a community which has no relation to the litigation. In cases which touch the affairs of many persons, there is reason for holding the trial in their view and reach rather than in remote parts of the country where they can learn of it by report only. There is a local interest in having localized controversies decided at home. There is an appropriateness, too, in having the trial of a diversity case in a forum that is at home with the state law that must govern the case, rather than having a court in some other forum untangle problems in conflict of laws, and in law foreign to itself.

330 U.S. at 508-509, 67 S.Ct. at 843.

It is true that in Gulf Oil, supra, the Supreme Court recognized that the burden is upon the movant to show that the chosen forum is inconvenient, and that absent a strong showing, the Plaintiff's choice should not ordinarily be disturbed; however, each case rests upon its own particular facts, and the discretion of the trial court in dismissing an action on forum non conveniens grounds will rarely be overturned except for abuse of discretion, see 15 Wright & Miller, § 3828.

By way of illustration, the Court will review the facts of some cases in which the action was dismissed on forum non conveniens grounds:

Reyno v. Piper Aircraft Co., 479 F.Supp. 727 (M.D. Pa. 1979), involved an action arising out of an airplane crash that took place in Scotland. The victims were Scottish citizens, the pilot was Scottish, the flight was for a Scottish flying service, and the only contact with the forum was that the aircraft had been manufactured in that District by the Piper Aircraft Co. The court there examined the factors involved, including the fact that the witnesses were in Scotland and England, and were not subject to compulsory process; that third parties would likely become involved who were outside of the power of the court to implead; that foreign law would likely apply and the case would be unnecessarily

complex to an American jury; that Scotland had an interest in the litigation since the accident occurred in Scotland; and that the choice of forum was entitled to little weight under the circumstances, since the Plaintiff was Scottish. After analyzing the factors, the court dismissed the action.

On this last point, the weight to be given to the choice of forum by the Plaintiff, the Reyno court, and the court in Farm-anfarmaian v. Gulf Oil Co., 437 F.Supp. 910 (S.D. N.Y. 1977), aff'd, 588 F.2d 880 (Second Cir. 1978) recognized that the normal weight to be given to this factor is only truly applicable when the Plaintiff has chosen his home forum as the forum for the litigation; if he has chosen a foreign place, especially if it appears that he has done so to take advantage of more liberal rules of law extended by the American forum, his choice is not entitled to the great weight usually given to it. However, it should be noted that even if the Plaintiff is an American and has chosen an American forum, his choice can be outweighed by the circumstances of the case, if the interests of justice require that the action be litigated elsewhere, see, e.g., Shepard Niles Crane & Hoist Co. v. Fiat, S.p.A., 84 F.R.D. 299 (W.D. N.Y. 1979).

In Abouchalache v. Hilton International Co., 464 F.Supp. 94 (S.D. N.Y. 1978), the survivors and representatives of victims sued to recover damages arising out of a bomb explosion which occurred in the London Hilton. Although Plaintiffs argued that the Defendants' negligence in setting out the procedures for handling bomb threats occurred in New York, the court concluded that the action should be dismissed, because even if documents were more readily available in New York, they could be more easily transported to England than live witnesses could be transported to New York from London; the Court also considered the factors enumerated in the Gulf Oil case, and concluded that even though two of the Plaintiffs were Americans, and even though English law was less hospitable to such tort actions than American law, the balance of the hardships and equities required dismissal.

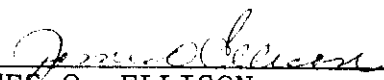
In Del Rio v. Ballenger Corp., 391 F.Supp. 1002 (D.S.C. 1975), the court dismissed the action for forum non conveniens when it appeared that the action arose out of a vehicular accident that occurred in the country of Panama, that the Plaintiff was a Panamanian citizen, that the facts would be more accessible in Panama than in South Carolina, and that Panamanian law would apply.

Ionescu v. E.F. Hutton & Co. (France) S.A., 465 F.Supp. 139 (S.D. N.Y. 1979), involved a suit brought by an American citizen against a French corporation which was a wholly owned subsidiary of an American corporation. The dispute was over a brokerage contract, and the Court found that all of the activities giving rise to the suit had occurred in France, the witnesses would be French, and that France would have the greatest interest in the litigation and that French law would apply. The action was dismissed for forum non conveniens.

Upon a consideration of the facts of this case in light of the cases discussed above, the Court concludes that dismissal of this action on the ground of forum non conveniens is warranted, and Defendant's motion for dismissal should be granted, although not without conditions.

IT IS THEREFORE ORDERED that Defendant's motion to dismiss be, and the same hereby is granted, on the conditions that (1) the claims asserted herein may be adjudicated in the courts of the United Kingdom; (2) Defendant consents to submit itself to personal jurisdiction in the appropriate court; (3) in any action filed against Defendant in the United Kingdom arising out of the occurrences alleged herein, Defendant waive any defenses, including the statute of limitations that it did not have available to it at the time this Complaint was filed.

It is so Ordered this 10th day of April, 1981.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT IN AND FOR
THE NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 10 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

CHARLOTTE HAYES,

Plaintiff,

vs.

BOISE CASCADE CORPORATION,
WILLIAM KREI, MIKE CROWL and
ROBERT MARGASON,

Defendant.


No. 78-C-514-E

ORDER OF DISMISSAL

The parties having filed herein a Settlement Agreement and a Motion to Dismiss jointly requesting that this action be dismissed with prejudice, and the Court being fully advised, it is

ORDERED, that this cause be and the same is hereby dismissed with prejudice, without costs to either party.

ENTERED this 8th day of April, 1981.


JAMES O. ELLISON
Judge for the United States
District Court for the
Northern District of Oklahoma

FILED

Jack M. Silver, Clerk
U. S. DISTRICT COURT

Defendants.

ORDER OF DISMISSAL

~~THOMAS R. BRETT, U.S. DISTRICT JUDGE~~
JAMES O. ELLISON, U.S. DISTRICT
JUDGE

~~NOTE: THIS ORDER IS TO BE MAILED
IN ACCORDANCE TO ALL COUNCIL AND
FED. OF HIGGINS IMMEDIATELY
UPON RECEIPT.~~

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

SHIRLEY ANN AINSWORTH,
as Administratrix of the
Estate of JERRY AINSWORTH,
Deceased,

Plaintiff,

vs.

AMERACE CORPORATION and
R.S. GOODMAN COMPANY OF
OKLAHOMA, INC.,

Defendants.

APR 10 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 81-C-17-E ✓

JOURNAL ENTRY OF DEFAULT JUDGMENT

Now on this 10th day of April, 1981, the above case comes on for hearing upon the Motion for Default Judgment of the Plaintiff, Shirley Ann Ainsworth, as to the Defendant, R.S. Goodman Company of Oklahoma, Inc. The Court finds as follows:

(1) That a summons and a copy of the complaint filed herein were served upon the registered service agent for said Defendant, Jeff F. Kendall and Associates, 214 Northwest 33rd, Oklahoma City, Oklahoma, on January 22, 1981.

(2) That said Defendant has failed to answer, plead or otherwise defend this action as of March 30, 1981, and is therefore totally in default.

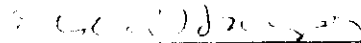
(3) That diversity of citizenship exists between the Plaintiff and said Defendant, as the Plaintiff is a resident of Texas, and the Defendant corporation is a resident of Oklahoma, its state of incorporation. That the amount in controversy exceeds the sum of \$10,000.00, exclusive of interest and costs.

(4) That a copy of the Motion for Default Judgment, along with the Affidavit for Default Judgment by Court Clerk, and a copy of this Journal Entry, was sent by certified mail to the aforementioned registered service agent for said Defendant, by the attorney for Plaintiff, on April 1, 1981.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff, Shirley Ann Ainsworth, be awarded default judgment against the Defendant, R.S. Goodman Company of Oklahoma, Inc., for money damages in the total sum of \$1,403,035.00, plus interest at the legal rate until paid, for all of which let execution issue.


UNITED STATES DISTRICT JUDGE

APPROVED:


Eddie Harper

STIPE, GOSSETT, STIPE, HARPER & ESTES
P.O. Box 1368
McAlester, Oklahoma 74501
Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT WITHIN AND FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

DAVID G. GOURLEY, JR., Legal)
representative of the estate of)
DAVID G. GOURLEY, III, deceased,)
Plaintiff,)
vs.)
SAM TANKSLEY TRUCKING, INC.;)
JIM McCLINTOCK; and JERRY LYNN HULL)
Defendants.)

APR 10 1981

Jack G. Greer, Clerk
U. S. DISTRICT COURT

No. 80-C-703-E

ORDER OF DISMISSAL

Now on this 31st day of March, 1981, this matter came on for hearing on the disposition docket of the Honorable James O. Ellison. That presiding was Magistrate Robert Risley and pursuant to his oral order, this cause is dismissed as to the Defendant, Jerry Lynn Hull.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the above captioned matter is dismissed as to the Defendant, Jerry Lynn Hull.

/s/ JAMES O. ELLISON

UNITED STATES DISTRICT COURT JUDGE

APPROVALS:

JEFFERSON G. GREER,

Jefferson G. Greer
Attorney for Plaintiff

STEPHEN C. WILKERSON,

Stephen C. Wilkerson
Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 9 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT


UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
CLARENCE BERYL SAVAGE,)
)
Defendant.)

No. 79-C-455-Bt

ORDER OF DISMISSAL

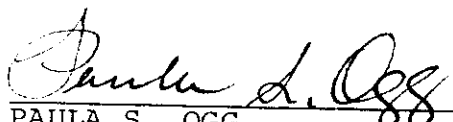
NOW, on this 9th day of April, 1981, there came on for consideration the Notice of Dismissal filed herein on the 8th day of April, 1981, by the Plaintiff, United States of America. The Court finds this action, based on such Notice of Dismissal, should be dismissed.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that this action be and the same is hereby dismissed.


UNITED STATES DISTRICT JUDGE

Approved:

Hubert H. Bryant
United States Attorney


PAULA S. OGG
Assistant United States Attorney


CLARENCE BERYL SAVAGE Pro Se

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF OKLAHOMA

CLERK'S OFFICE

UNITED STATES COURT HOUSE

TULSA, OKLAHOMA 74103

(918) 581-7796
(FTS) 736-7796

JACK C. SILVER
CLERK

April 8, 1981

Ms. Linda Davis
4808 South Elwood, No. 303
Tulsa, Oklahoma 74107

Mr. John Estes
Attorney at Law
P. O. Box 53567
Oklahoma City, Oklahoma 73152

Mr. Hubert H. Bryant
U. S. Attorney
460 U. S. Courthouse
Tulsa, Oklahoma 74103

Mr. W. Russell Welsh
Torts Branch, Civil Division
Safeway Building, Room 852
Department of Justice
Washington, D. C. 20530

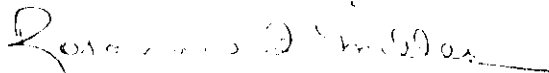
Re: 79-C-505
Linda Davis v. U.S.A.
Swine Flu Litigation

This is to advise you that U. S. District Judge Sherman G. Finesilver entered the following Minute Order this date in regard to the above case:

"IT IS ORDERED by the Court that, pursuant to Order of this Court filed January 7, 1981, this action is dismissed without prejudice for plaintiff's failure to comply with said Order."

Very truly yours,

JACK C. SILVER, CLERK


Deputy

rfm

cc: Honorable Sherman G. Finesilver

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

APR - 8 1981

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMEY A. MEEK,

Defendant.

Jack C. Silver, Clerk
U. S. DISTRICT COURT

CIVIL ACTION NO. 80-C-627-E

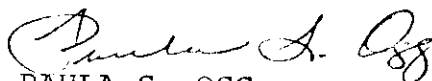
NOTICE OF DISMISSAL

COMES NOW the United States of America, Plaintiff herein, by and through its attorney Paula S. Ogg, Assistant United States Attorney for the Northern District of Oklahoma, and hereby gives notice of its dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action, without prejudice.

Dated this 8th day of April, 1981.

UNITED STATES OF AMERICA

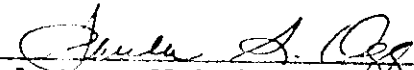
HUBERT H. BRYANT
United States Attorney



PAULA S. OGG
Assistant United States Attorney

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing pleading was served on each of the parties hereto by mailing the same to them or to their attorneys of record on the 8th day of April, 1981.



Assistant United States Attorney

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF OKLAHOMA

CLERK'S OFFICE

UNITED STATES COURT HOUSE

TULSA, OKLAHOMA 74103

(918) 581-7796
(FTS) 736-7796

JACK C. SILVER
CLERK

April 8, 1981

Ms. Linda Davis
4808 South Elwood, No. 303
Tulsa, Oklahoma 74107

Mr. John Estes
Attorney at Law
P. O. Box 53567
Oklahoma City, Oklahoma 73152

Mr. Hubert H. Bryant
U. S. Attorney
460 U. S. Courthouse
Tulsa, Oklahoma 74103

Mr. W. Russell Welsh
Torts Branch, Civil Division
Safeway Building, Room 852
Department of Justice
Washington, D. C. 20530

Re: 79-C-505 ✓
Linda Davis v. U.S.A.
Swine Flu Litigation

This is to advise you that U. S. District Judge Sherman G. Finesilver entered the following Minute Order this date in regard to the above case:

"IT IS ORDERED by the Court that, pursuant to Order of this Court filed January 7, 1981, this action is dismissed without prejudice for plaintiff's failure to comply with said Order."

Very truly yours,

JACK C. SILVER, CLERK

Rose M. D. Miller
Deputy

rfm

cc: Honorable Sherman G. Finesilver

FILED

APR 8 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)	
)	
Plaintiff,	)	CIVIL ACTION NO. 78-C-110-Bt
)	
vs.	)	This action applies only to
	)	the Lessor Interest in the
3.45 Acres of Land, More or	)	estate taken in:
Less, Situate in Washington)	
County, State of Oklahoma, and	)	Tracts Nos. 218E-1,
Rosa Wilson Goodman, et al.,	)	218E-2 and 218E-3
and Unknown Owners,)	
	)	(Included in D.T. filed in
Defendants.	)	Master File #400-12)

J U D G M E N T

1.
Now, on this 8th day of April, 1981, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment on a stipulation of the parties agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for Plaintiff, finds:

2.
This judgment applies to the entire estate condemned in Tracts Nos. 218E-1, 218E-2 and 218E-3, as such estate and tracts are described in the Complaint filed in this action.

3.
The Court has jurisdiction of the parties and subject matter of this action.

4.
Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this case.

5.
The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power and authority to condemn for public use the property described in such Complaint. Pursuant thereto, on March 13, 1978, the

United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing the Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court, as estimated compensation for the taking of a certain estate in subject tracts a certain sum of money, and all of this deposit has been disbursed, as set out below in paragraph 12.

7.

The defendant named in paragraph 12 as owner of the subject property is the only defendant asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendant was, as of the date of taking, the owner of the subject property and, as such, is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject tracts and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject tracts is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for the estate taken in subject tracts and the amount fixed by the Stipulation As To Just Compensation, and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out in paragraph 12 below.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority to condemn for public use the tracts listed in paragraph 2 herein,

as such tracts are particularly described in the Complaint filed herein; and such tracts, to the extent of the estate described in such Complaint, are condemned, and title thereto is vested in the United States of America, as of March 13, 1978, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such estate.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject tracts was the defendant whose name appears below in paragraph 12, and the right to receive the just compensation for the estate taken herein in such tracts is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation mentioned in paragraph 8 above hereby is confirmed; and the sum thereby fixed is adopted as the award of just compensation for the estate condemned in subject tracts as follows:

TRACTS NOS. 218E-1, 218E-2 & 218E-3
(Lessor Interest Only)

OWNER:

Rosa Wilson Goodman
(Fullblood Cherokee - Restricted)

Award of Just Compensation		
pursuant to Stipulation -----	\$2,003.00	\$2,003.00
Deposited as Estimated Compensation --	1,754.00	
Disbursed to Owner -----		<u>1,754.00</u>
Balance Due to Owner -----		<u>\$ 249.00</u>
Deposit Deficiency -----	\$ 249.00	

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court in this civil action, to the credit of subject tracts, the deposit deficiency in the sum of \$249.00, and the Clerk of this

Court then shall disburse the deposit for such tracts as follows:

To:

Bureau of Indian Affairs, to the
Account of Rosa Wilson Goodman ----- \$249.00


UNITED STATES DISTRICT JUDGE

APPROVED:


HUBERT A. MARLOW
Assistant United States Attorney


SUZETTE C. CHAFIN
Attorney for Rosa Wilson Goodman

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

CLAUDE MILLSAP, SR.,

Plaintiff,

vs.

CECIL ANDRUS, Secretary of
the Department of the Interior,
et al.,

Defendants.

No. 80-C-250-BT

FILED

APR 7 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

Based on the Memorandum Opinion and Findings of Fact
and Conclusions of Law filed simultaneously with this
Judgment,

IT IS ORDERED Judgment is entered in favor of the
defendant and against the plaintiff.

ENTERED this 7th day of April, 1981.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE SWINE FLU IMMUNIZATION
PRODUCTS LIABILITY LITIGATION

BARBARA L. EVANS,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

Civil Action No. 79-0187-F ✓

~~FILED~~
MAR 26 1981

~~Jack C. Silver, Clerk~~
~~U.S. DISTRICT COURT~~

STIPULATION FOR DISMISSAL

The parties, by their undersigned attorneys, pursuant to Rule 41(a) of the Federal Rules of Civil Procedure, hereby stipulate that the above-captioned action may be, and hereby is dismissed with prejudice, each party to bear its own costs.

SIGNED:

Michael Barkley
MICHAEL BARKLEY
4100 Bank of Oklahoma Tower
One Williams Center
Tulsa, Oklahoma 74172

Attorney for Plaintiff

Thaddeus B. Hodgdon
THADDEUS B. HODGDON
Torts Branch, Civil Division
U.S. Department of Justice
Washington, DC 20530

Attorney for Defendant

Dated: 3-1-81

Dated: 2-19-81

APPROVED: *Sherrill G. French*
UNITED STATES DISTRICT JUDGE

Dated: 31 March 81

THADDEUS B. HODGDON
TORTS BRANCH, CIVIL DIVISION
U.S. DEPARTMENT OF JUSTICE
WASHINGTON, DC 20530

~~FILED~~

APR - 6 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 8 1981

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Plaintiff,

vs.

MARK C. PIERCE, FREDERICK R.
NASH, MONTY DEAN SMITH and
ALLEN D. SMITH,

Defendants.

No. 79-C-702-E ✓

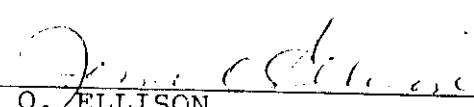
Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT

This matter having been submitted by agreement of the parties on depositions and briefs, and the Court, having considered the evidence and the arguments of counsel,

IT IS ORDERED, ADJUDGED AND DECREED that Plaintiff, State Farm Mutual Automobile Insurance Company, is under no duty to appear, defend, or indemnify Defendants Monty Dean Smith or Allen D. Smith, or both of them, in any suit brought against them by Defendants Mark C. Pierce or Frederick R. Nash, arising out of an automobile accident occurring on September 30, 1979.

Entered this 2nd day of April, 1981.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) No. 80-C-119-C
)
JERRY E. HARRIS,)
)
Defendant.)

FILED
APR - 3 1981
Jack C. Silver, Clerk
U. S. DISTRICT COURT

AGREED JUDGMENT

This matter comes on for consideration this 3rd
day of ^{April} ~~March~~, 1981, the Plaintiff appearing by Paula S. Ogg,
Assistant United States Attorney for the Northern District
of Oklahoma, and the Defendant, Jerry E. Harris, pro se,
appearing not.

The Court being fully advised and having examined
the file herein finds that Defendant Jerry E. Harris, was
personally served with Summons and Complaint on March 20, 1980.

The parties agree and consent that judgment may be
entered against the Defendant, Jerry E. Harris, in the amount
of \$765.90.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED
that the Plaintiff have and recover Judgment against Defendant,
Jerry E. Harris, for the principal sum of \$765.90 plus interest
at the legal rate from the date of this Judgment until paid.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
defendant, Jerry E. Harris will make monthly installments of
\$25.00 per month until paid and further that upon failure of
defendant to make said payments, the full amount of the Judgment
plus interest will become due and owing.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

APPROVED:

HUBERT H. BRYANT
United States Attorney

Paula S. Ogg
PAULA S. OGG
Assistant United States Attorney

Jerry E. Harris
JERRY E. HARRIS, pro se

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
LAWRENCE A. MARTIN, II,)
)
Defendant.)

APR - 3 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

CIVIL ACTION NO. 81-C-61-C

DEFAULT JUDGMENT

This matter comes on for consideration this 3rd
day of April, 1981, the Plaintiff appearing by Philard L. Rounds, Jr.,
Assistant United States Attorney for the Northern District of
Oklahoma, and the Defendant, Lawrence A. Martin, II, appearing not.

The Court being fully advised and having examined the
file herein finds that Defendant, Lawrence A. Martin, II, was
personally served with Summons and Complaint on March 2, 1981, and
that Defendant has failed to answer herein and that default has
been entered by the Clerk of this Court.

The Court further finds that the time within which the
Defendant could have answered or otherwise moved as to the Complaint
has expired, that the Defendant has not answered or otherwise
moved and that the time for the Defendant to answer or otherwise
move has not been extended, and that Plaintiff is entitled to
Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that
the Plaintiff have and recover Judgment against Defendant, Lawrence A.
Martin, II, for the principal sum of \$695.00 plus the accrued
interest of \$541.12 as of November 10, 1980, plus interest at 7%
from November 10, 1980, until the date of Judgment, plus interest
at the legal rate on the principal sum of \$695.00 from the date
of Judgment until paid.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

UNITED STATES OF AMERICA
HUBERT H. BRYANT
United States Attorney
Philard L. Rounds, Jr.
PHILARD L. ROUNDS, JR.
Assistant U. S. Attorney

NOTE: THIS ORDER IS TO BE MAILED
BY MOVANT TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

APR 3 1981

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
MARK J. SOWLES, SR.,)
)
Defendant.)

Jack C. Silver, Clerk
U. S. DISTRICT COURT

CIVIL ACTION NO. 81-C-58-E

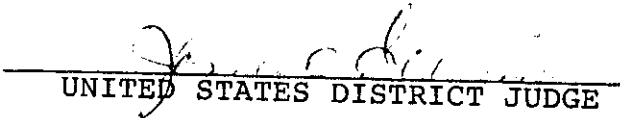
DEFAULT JUDGMENT

This matter comes on for consideration this 24
day of April, 1981, the Plaintiff appearing by Terrill V. Landrum,
Assistant United States Attorney for the Northern District of
Oklahoma, and the Defendant, Mark J. Sowles, Sr., appearing not.

The Court being fully advised and having examined the
file herein finds that Defendant, Mark J. Sowles, Sr., was personally
served with Summons and Complaint on February 2, 1981, and that
Defendant has failed to answer herein and that default has been
entered by the Clerk of this Court.

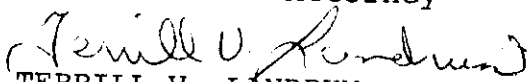
The Court further finds that the time within which
the Defendant could have answered or otherwise moved as to the
Complaint has expired, that the Defendant has not answered or
otherwise moved and that the time for the Defendant to answer
or otherwise move has not been extended, and that Plaintiff is
entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that
the Plaintiff have and recover Judgment against Defendant, Mark J.
Sowles, Sr., for the principal sum of \$1,922.88 plus interest
at the legal rate from the date of this Judgment until paid.


UNITED STATES DISTRICT JUDGE

UNITED STATES OF AMERICA

HUBERT H. BRYANT
United States Attorney


TERRILL V. LANDRUM
Assistant U. S. Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

EUGENE MONROE,

Petitioner,

vs.

MACK H. ALFORD and JAN ERIC
CARTWRIGHT,

Respondents.

No. 80-C-667-BT ✓

FILED

APR 3 1981 *rm*

Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

Petitioner, Eugene Monroe, has filed this pro se petition for habeas corpus pursuant to 28 U.S.C.A. §2254 seeking relief from his present incarceration at the Stringtown Correctional Center. Petitioner is presently incarcerated serving on a life sentence for murder, Tulsa County Case No. 14836, and a thirty-five year sentence for armed robbery after a former conviction for a felony, Oklahoma County Case No. CRF-71-348. Petitioner previously served a five year sentence for indecent exposure and a forty year sentence for robbery with firearms. But for a brief period between December 18, 1970 and May 22, 1971, petitioner has been incarcerated in the state penal system since April 24, 1952.

Petitioner claims, in essence, that an improper "billing" of the terms for which petitioner has been sentenced violated petitioner's constitutional rights and forced petitioner to endure a hardship for which he is now entitled to habeas corpus relief. Petitioner does not assert that he has been incarcerated for a longer period than he was sentenced to serve. Rather, petitioner submits that the misordering of sentences prevented him from appearing before the Pardon and Parole Board at the earliest appropriate date for each sentence. For the reasons set out below, the petition for writ of habeas corpus is hereby denied.

The facts of this case are evidenced by documents in the record that detail the background and course of petitioner's incarceration. These facts form the basis of petitioner's claim for habeas corpus relief.

In 1952 petitioner was given three separate sentences to be served consecutively: Five (5) years for indecent exposure, Tulsa County Case No. 14820; forty (40) years for robbery with firearms, Tulsa County Case No. 14957; and life for murder, Tulsa County Case No. 14836. In each of the above actions petitioner pleaded guilty. On April 24, 1952 petitioner was admitted to the Oklahoma prison system. Inadvertently his time of incarceration was billed to the life sentence rather than to the five (5) year sentence or the forty (40) year sentence as provided by Oklahoma law.^{1/} Nonetheless, plaintiff was paroled on all three counts December 18, 1970 which according to department calculations was nearly three years sooner than he would have been eligible for parole had he served each sentence in proper sequence and been paroled at the earliest possible date for each offense.

Shortly after his release in December 1970, petitioner was arrested for robbery with firearms. On May 22, 1971 petitioner was convicted and sentenced in Oklahoma County to thirty-five (35) years for robbery with firearms after former conviction of a felony ("AFCF"). Petitioner was returned to the Department of Corrections on April 21, 1971 to serve the life term for the crime of murder in Tulsa County, Case No. 14836, robbery with firearms Case No. 14957, indecent exposure Case No. 14820, and the new Oklahoma County Case No. CRF-71-348, robbery with firearms AFCF. It was necessary to complete the sentences for the previous convictions since petitioner's parole was revoked on February 19, 1971 pursuant to his admission that he had used a .22 caliber pistol to rob a local theater. Upon returning to the Department of Corrections, petitioner was again improperly billed to his life sentence rather than the sentences set out in terms of years.

^{1/} In this case, the proper sequence for billing the sentences would have been the five year sentence, the forty year sentence and the life sentence.

On November 7, 1977 an audit of the records revealed that petitioner indeed had been "billed in" on April 25, 1952 on the life sentence with the other sentences to run consecutively. This was recognized by the Department of Corrections to be in error. On November 22, 1977, the Department of Corrections corrected the order of sentences and submitted it to the administration for approval. On May 1, 1978, the petitioner was notified of the correction.

The Department of Corrections determined that petitioner has "flattened out" (completed serving the sentence) both the five (5) year sentence and forty (40) year sentence when computed in accordance with proper billing procedures. It was further determined that petitioner would not have begun to serve his life sentence until January 1, 1974. At that time also petitioner would still have had to serve the thirty-five (35) year term for which he was sentenced during his brief parole in 1970-1971.

The records further reveal that petitioner was "special reviewed" by the Pardon and Parole Board as a result of the audit of his records on or about January 21, 1979.

Petitioner applied for a writ of habeas corpus in the District Court of Atoka County and was denied on April 19, 1979. Petitioner appealed from the denial of petition for writ of habeas corpus and was denied by order of the Court of Criminal Appeals on July 27, 1979, Case No. H-79-366 which stated in part, "Petitioner has alleged nothing which would entitle him to his immediate release from custody."

In response to petitioner's writ of habeas corpus, the Attorney General asserts at the outset that petitioner has not exhausted available state remedies for post-conviction relief and therefore federal habeas corpus relief is not available. It is settled law that a state prisoner must normally exhaust available state judicial remedies before a federal court will entertain a petition for habeas corpus. See

Picard v. Connor, 404 U.S. 270 (1971). See also 28 U.S.C.A. §2254. When a state provides for an appeal from a state court conviction the procedures thereof must be complied with in order to obtain such appeal. Brown v. Allen, 344 U. S. 443 (1953). Oklahoma has provided for an appeal procedure to the Oklahoma Court of Criminal Appeals. 22 O.S.A. §1080. Petitioners may not deliberately bypass this procedure and then come to the federal court with a petition for writ of habeas corpus. See Kennedy v. Anderson, 373 F.Supp. 1345 (E.D. Okl. 1974)

In applicable part, 22 O.S.A. §1080 provides as follows:

"Any person who has been convicted of, or sentenced for, a crime and who claims:....
(e) that his sentence has expired, his suspended sentence, probation, parole, or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint;...
may institute a proceeding under this act in the court in which the judgment and sentence on conviction was imposed to secure the appropriate relief."

If relief is denied in the District Court an appeal may then be taken to the Oklahoma Court of Criminal Appeals. See e.g. Green v. State, 594 P2d 767 (Ok1.Cr.1979).

In the present case petitioner filed an application for a writ of habeas corpus based on the facts present here in the District Court of Atoka County which was denied on April 19, 1979. On July 5, 1979 petitioner filed an appeal from such denial to the Oklahoma Court of Criminal Appeals. As a result the Court of Criminal Appeals has effectively ruled upon the substance of petitioner's claim. This is true despite the fact that the claim came through the District Court of Atoka County, the jurisdiction in which petitioner is presently incarcerated, rather than through either the District Court of Oklahoma County or the District Court of Tulsa County, the judicial districts in which petitioner was originally sentenced for the terms he is presently serving. On these facts this Court concludes

that petitioner has brought his claim to the highest state court empowered to rule thereon. Therefore, petitioner has exhausted his state remedies for purposes of this application for writ of habeas corpus. Compare Fay v. Noia, 372 U.S. 391 (1963); 28 U.S.C.A. §2254.

Respondent Attorney General further argues that petitioner has not alleged a constitutional injury and therefore this Court is without jurisdiction in this habeas corpus action. In Greenholtz v. Nebraska Penal Inmates, 442 U.S. 1 (1978) the Supreme Court stated:

"There is no constitutional or inherent right of a convicted person to be conditionally released before the expiration of a valid sentence. The natural desire of an individual to be released is indistinguishable from the initial resistance to being confined. But the conviction, with all its procedural safeguards, has extinguished that liberty right:...

"Decisions of the Executive Branch, however serious their impact, do not automatically invoke due process protection; there simply is no constitutional guarantee that all executive decision making must comply with standards that assure error free determinations..."

These general considerations were specifically applied to the Oklahoma system of pardon and parole in Shirley v. Chestnut, 603 F.2d 805 (10th Cir. 1979) which stated in applicable part:

"We have carefully considered the Oklahoma statutes and other information concerning parole procedures provided in the record. We hold that the Oklahoma statutory scheme outlined above does no more than create a parole system, which in the Supreme Court's view as expressed in Greenholtz does not establish a liberty interest. In the absence of such liberty interest, the specific due process procedures requested by the appellants are not applicable."

In applicable part 28 U.S.C.A. §2254(a) states as follows:

"The Supreme Court, a Justice thereof, a circuit judge, or a district court shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States."

In the present case petitioner alleges that he has suffered as a result of a misordering of the sentences he received for a series of convictions in state courts. Plaintiff asserts that in some way this misordering of sentences attains the level of a constitutional violation. This Court cannot agree with this conclusion. The essence of petitioner's complaint is that he was not brought up for parole in a timely fashion due to the errors in billing his time of incarceration. However, the record reveals that the plaintiff was paroled in 1970, nearly three years before he would have been paroled had the sentences been properly ordered and had he been paroled at the earliest possible date on each sentence. Furthermore, the billing problems regarding petitioner's incarceration have been resolved and petitioner has been brought up for "special review" by the Pardon and Parole Board. The Board, acting through the Institutional Correctional Review Committee, declined to grant petitioner's request for relief from the two sentences presently in effect.

The Court concludes the law is clear that the parole procedures of the State of Oklahoma do not implicate a liberty interest under the Constitution of the United States. Shirley v. Chestnut, supra. Therefore, the Court finds that petitioner's claim that he was denied his right to parole review is not brought properly under 28 U.S.C.A. §2254, since no cognizable constitutional or statutory interest is at issue.

The Court further concludes that the record is complete and fully supports this finding, and consequently a hearing is not required to develop the record in this matter.

IT IS THEREFORE ORDERED that the petition for writ of habeas corpus is denied.

DATED this 3rd day of April, 1981.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF OKLAHOMA

IN THE UNITED STATES DISTRICT COURT WITHIN AND FOR
THE NORTHERN DISTRICT OF OKLAHOMA

RICHARD MATT,

Plaintiff,

vs.

J. ERNEST TALLEY, d/b/a
TALLEY INVESTMENTS,

Defendant.

FILED

NO. 80 C 511 B

APR - 3 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER OF DISMISSAL

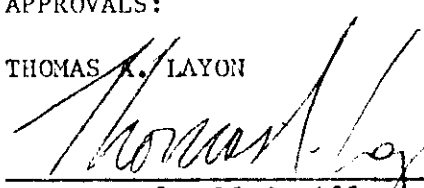
ON This 3rd day of April, 1981, upon the written application of the parties for A Dismissal with Prejudice of the Complaint and all causes of action, the Court having examined said application, finds that said parties have entered into a compromise settlement covering all claims involved in the Complaint and have requested the Court to dismiss said Complaint with prejudice to any future action, and the Court being fully advised in the premises, finds that said Complaint should be dismissed pursuant to said application.

IT IS THEREFORE ORDER, ADJUDGED AND DECREED by the Court that the Complaint and all causes of action of the plaintiff filed herein against the defendant be and the same hereby is dismissed with prejudice to any future action.

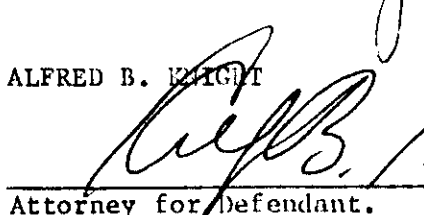

JUDGE, DISTRICT COURT OF THE UNITED
STATES, NORTHERN DISTRICT OF OKLAHOMA

APPROVALS:

THOMAS A. LAYON


Attorney for Plaintiff,

ALFRED B. KNIGHT


Attorney for Defendant.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

EVELYN ANN HUTCHISON,
Administratrix of the Estate of
David W. Hutchison, Deceased,

Plaintiff,

vs.

MEDTRONIC, INC.,

Defendant.

APR 31 1981

Jack C. Silcox, Clerk
U. S. DISTRICT COURT

No. 80-C-51-E ✓

ORDER OF DISMISSAL

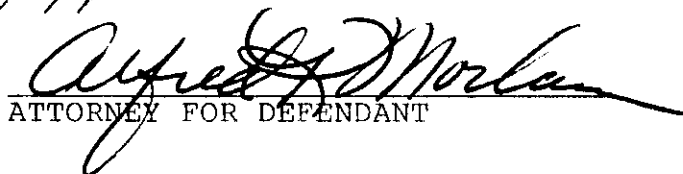
NOW, on this 362 day of March, 1981, this matter coming on before me, the undersigned Judge of the United States District Court for the Northern District of Oklahoma, upon the Plaintiff and Defendant's Application to dismiss the above-entitled cause with prejudice, and the Court having examined the Application, finds that said parties have stipulated that all causes of action and issues in the Complaint have been settled, compromised, and released, and that Plaintiff and Defendant have requested the Court to dismiss said Complaint with prejudice to any future action.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the Court that the Complaint and all causes of action of the Plaintiff filed herein against the Defendant be, and the same is hereby dismissed with prejudice to any future action.


UNITED STATES DISTRICT JUDGE.

APPROVED:


ATTORNEY FOR PLAINTIFF


ATTORNEY FOR DEFENDANT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

THOMAS ALI AQUELL, a/k/a)
THOMAS E. JONES,)
)
Plaintiff,)
)
v.)
)
FINCH & FINCH JANITORIAL &)
LANDSCAPING SERVICES)
)
and)
)
AMOCO PRODUCTION CO.,)
)
Defendants.)
_____)

FILED

APR 8 1981 *Agm*

Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 80-C-542-E✓

ORDER

This Cause having come before the Court on a Stipulation For Dismissal Of Claims Between Plaintiff And Defendant Amoco, and the Court having reviewed such Stipulation, and it appearing to the Court that such Stipulation should be approved, it is, therefore,

ORDERED, ADJUDGED and DECREED that the Stipulation between Plaintiff and Defendant Amoco be, and hereby is, approved and that, pursuant to such Stipulation, this action be dismissed as to Defendant Amoco with prejudice, with Plaintiff and Defendant Amoco each bearing their own costs.

So Ordered this 2nd day of April, 1981.

James H. ...
U. S. District Court Judge

Agreed as to form and contents:

Thomas Ali Aquell
Thomas Ali Aquell, Plaintiff

Mary T. Matthies
Mary T. Matthies, Attorney for
Amoco Production Co., Defendant

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF OKLAHOMA

VELMA FRITTS,

Plaintiff,

vs.

THELMA STERNS,

Defendant.

FILED

APR 3 1981 *MQ*


NO. 80-C-491-E ✓

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER OF DISMISSAL

ON This 3RD day of April, 1981, upon the written application of the parties for A Dismissal with Prejudice of the Complaint and all causes of action, the Court having examined said application, finds that said parties have entered into a compromise settlement covering all claims involved in the Complaint and have requested the Court to dismiss said Complaint with prejudice to any future action, and the Court being fully advised in the premises, finds that said Complaint should be dismissed pursuant to said application.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Complaint and all causes of action of the plaintiff filed herein against the defendant be and the same hereby is dismissed with prejudice to any future action.

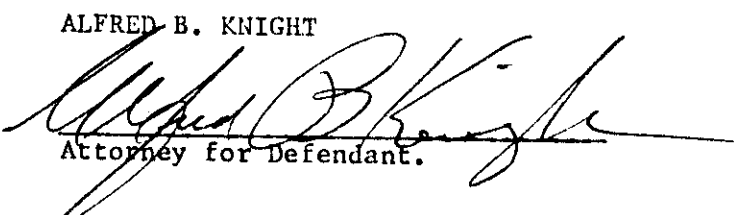

JUDGE, DISTRICT COURT OF THE UNITED
STATES, NORTHERN DISTRICT OF OKLAHOMA

APPROVALS:

DAVID R. SCOTT


Attorney for Plaintiff,

ALFRED B. KNIGHT


Attorney for Defendant.

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 3 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
ERIC G. FISCUS,)
)
Defendant.)

CIVIL ACTION NO. 80-C-616-E

DEFAULT JUDGMENT

This matter comes on for consideration this 22
day of April, 1981, the Plaintiff appearing by Terrill V. Landrum,
Assistant United States Attorney for the Northern District of
Oklahoma, and the Defendant, Eric G. Fiscus, appearing not.


The Court being fully advised and having examined the
file herein finds that Defendant, Eric G. Fiscus, was personally
served with Summons and Complaint on February 23, 1981, and that
Defendant has failed to answer herein and that default has been
entered by the Clerk of this Court.

The Court further finds that the time within which
the Defendant could have answered or otherwise moved as to the
Complaint has expired, that the Defendant has not answered or
otherwise moved and that the time for the Defendant to answer
or otherwise move has not been extended, and that Plaintiff is
entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that
the Plaintiff have and recover Judgment against Defendant, Eric G.
Fiscus, for the principal sum of \$1,500.00 plus the accrued interest
of \$344.52 as of August 1, 1980, plus interest at 7% from August 1,
1980, until the date of Judgment, plus interest at the legal
rate on the principal sum of \$1,500.00 from the date of Judgment
until paid.

UNITED STATES OF AMERICA
HUBERT H. BRYANT
United States Attorney

TERRILL V. LANDRUM
Assistant U. S. Attorney


UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT WITHIN AND FOR THE **F I L E D**
NORTHERN DISTRICT OF OKLAHOMA

APR - 3 1981 *Q*

DIANE RATEKIN,)
)
Plaintiff,)
)
vs.)
)
SAM TANKSLEY TRUCKING, INC., JIM)
McCLINTOCK and JERRY LYNN HULL,)
)
Defendants.)

Jack C. Silver, Clerk
U. S. DISTRICT COURT
No. 80-C-704-E ✓

STIPULATION OF DISMISSAL

COME NOW the Plaintiff and Defendants and pursuant to Rule 41 (a)
(1)(ii), Federal Rules of Civil Procedure, hereby stipulate to dismissal
with prejudice of this cause against the Defendant, Jim McClintock, only.

Jefferson G. Greer
Jefferson G. Greer, Attorney for Plaintiff

GREER AND GREER
206 Beacon Building
Tulsa, Oklahoma 74103
918-584-3591

KNIGHT, WAGNER, STUART, WILKERSON & LIEBER

By: *Stephen C. Wilkerson*
Attorney for Defendants

Stephen C. Wilkerson
310 Beacon Building
Tulsa, Oklahoma 74103
918-584-6457

IN THE UNITED STATES DISTRICT COURT WITHIN AND FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

DAVID G. GOURLEY, JR., Legal)
representative of the Estate of)
DAVID G. GOURLEY, III, deceased,)
Plaintiff,)
vs.)
SAM TANKSLEY TRUCKING, INC., JIM)
McCLINTOCK and JERRY LYNN HULL,)
Defendants.)

APR - 3 1981 *W*

U.S. DISTRICT COURT

No. 80-C-703-E ✓

STIPULATION OF DISMISSAL

COME NOW the Plaintiff and Defendants and pursuant to Rule 41(a)
(1)(ii), Federal Rules of Civil Procedure, hereby stipulate to dismissal
with prejudice of this cause against the Defendant, Jim McClintock, only.

Jefferson G. Greer
Jefferson G. Greer, Attorney for Plaintiff

GREER AND GREER
206 Beacon Building
Tulsa, Oklahoma 74103
918-584-3591

KNIGHT, WAGNER, STUART, WILKERSON & LIEBER

By: *Stephen C. Wilkerson*
Attorney for Defendants

Stephen C. Wilkerson
310 Beacon Building
Tulsa, Oklahoma 74103
918-584-6457

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 2 1981

Jack M. Shag, Clerk
U. S. DISTRICT COURT

HAROLD JOHN COLVIN,

Plaintiff,

vs.

STIEBEL-NICOLAUS & CO.,
A Foreign Corporation,

Defendant and Third
Party Plaintiff,

vs.

JOSEPH J. SPANIER,

Third Party Defendant.

No. 78-C-548-E

ORDER

COMES NOW this Court and orders the above styled and numbered cause to be dismissed with prejudice as per Motion for Dismissal filed by the plaintiff with agreement as between the parties.

James O. Ellison
JAMES O. ELLISON, JUDGE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT
OF OKLAHOMA

CERTIFICATE OF MAILING

I hereby certify that on this ____ day of _____, 1981, a true and correct copy of the above and foregoing Order was mailed, with correct postage thereon prepaid, to M. C. Kratz, Jr., Attorney for the defendant and third party plaintiff, Plaza Court Building, 1106 Classen Drive, Suite 215, Oklahoma City, Oklahoma 73103 and to the New York Stock Exchange, 11 Wall Street, New York, New York 10005 to the attention of Cynthia Waller Vallario, Arbitration Counsel.

WESLEY E. JOHNSON

WESLEY
E. JOHNSON
ATTORNEY AT LAW
1106 CLASSEN DRIVE
OKLAHOMA CITY 73103

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 2 1981 pt

Jack C. Silver, Clerk
U. S. DISTRICT COURT

GENJI NUMAO,

Plaintiff,

vs.

JAMES THEODORE INMAN,

Defendant.

No. 80-C-277-E ✓

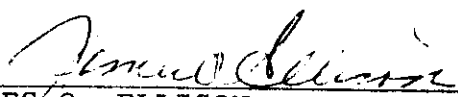
O R D E R

This matter came on for hearing on March 31, 1981, at 9:00 a.m. for disposition for failure of Plaintiff to prosecute. The case was called, but neither Plaintiff nor Defendant appeared, either in person or through counsel. Since the Amended Complaint herein was filed on December 31, 1980, no efforts or attempts have been made by Plaintiff to serve Defendant.

Inherent in the power of federal courts is the power to control their dockets. Pond v. Braniff Airways, Inc., 453 F.2d 347 (Fifth Cir. 1972); see Link v. Wabash Railroad Co., 370 U.S. 626, 82 S.Ct. 1386, 8 L.Ed.2d 734 (1962). Therefore, in appropriate circumstances, a district court may dismiss a complaint on the Court's own motion. Diaz v. Stathis, 440 F.Supp. 634 (D. Mass. 1977), aff'd, 576 F.2d 9 (First Cir. 1978); see Literature, Inc. v. Quinn, 482 F.2d 372 (First Cir. 1973); see e.g., Maddox v. Shroyer, 302 F.2d 903 (D.C. Cir. 1962), cert. denied, 371 U.S. 825, 83 S.Ct. 45, 9 L.Ed.2d 64 (1962). See also Rule 41(b), Fed.R.Civ.Pro.

The Court, upon a review of the file herein, concludes that this cause should be dismissed without prejudice for failure to prosecute.

It is so Ordered this 15th day of April, 1981.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JULIA SMITH,

Plaintiff,

vs.

TERRY MILLER and JOHN MILLER
d/b/a FASCO DAIRY QUEENS, INC.
a partnership,

Defendants.

No. 80-C-559-C

FILED

APR - 1 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

Now before the Court for its consideration are the defendant's Motion to Dismiss for Lack of Personal Jurisdiction; Motion to Consolidate Cases; and Motion to Strike.


The defendant Fasco Dairy Queen is a sole proprietorship which is owned, operated, and managed by Mr. Terry G. Miller. The defendant is incorrectly designated as a corporation in the caption on the Complaint and incorrectly described as a partnership in the body of the Complaint. In any event, the plaintiff sought to obtain service on Terry Miller by delivering a copy of the Complaint and Summons to John Miller, Terry Miller's son, at 1211 South Memorial Drive, Tulsa, Oklahoma. A commercial office is located at that address. It is not Terry Miller's "dwelling house or usual place of abode" or his "usual place of residence". Furthermore, John Miller is not "an agent authorized by appointment or by law to receive service of process" for Terry Miller. Rule 4(d)(1),(7), F.R.C.P.; 12 O.S. §159.

The burden is upon the plaintiff to prove the validity of the service it has effected. Klishewich v. Mediterranean Agencies, Inc., 42 F.R.D. 624 (E.D.N.Y. 1966); Kesler v. Schetky Equipment Corp., 200 F.Supp. 678 (N.D.Calif. 1961). The plaintiff has not met this burden. The defendant's motion to

dismiss has been pending since November 7, 1980. The plaintiff has been granted two extensions of time in which to respond and has not done so. Nor has the plaintiff attempted to secure effective service of process on the defendant.

For the foregoing reasons, it is therefore ordered that defendant's Motion to Dismiss for Lack of Personal Jurisdiction is hereby sustained. It is further ordered that defendant's Motion to Consolidate Cases, and Motion to Strike are therefore overruled as they are moot.

It is so Ordered this 5th day of March, 1981.


H. DALE COOK
Chief Judge, U. S. District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 1 1981

KENNETH RAY HILL,

Plaintiff,

vs.

FORD MOTOR COMPANY,

Defendant.

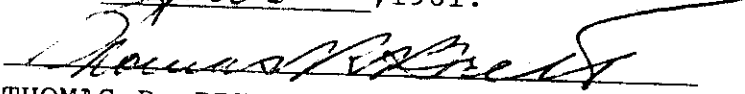
No. 80-C-177-BT

J U D G M E N T

Following the presentation of the evidence and the parties having rested, the defendant, Ford Motor Company, moved for a directed verdict. The Court permitted the jury to deliberate to arrive at a verdict and the jury, after deliberating approximately 5 1/2 hours, reported to the Court it could not arrive at a unanimous verdict and was hopelessly deadlocked so therefore discharged. Upon renewal and reconsideration of the defendant's motion for directed verdict under Rule 50 of the Federal Rules of Civil Procedure, the Court concluded the motion for directed verdict should be sustained.

IT IS THEREFORE ORDERED the motion for directed verdict of the defendant herein is hereby sustained and judgment is hereby granted in favor of the defendant and against the plaintiff with the costs of the action assessed against the plaintiff.

DATED this 1 day of April, 1981.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

APR - 1 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
DOUGLAS W. PERCELL,)
)
Defendant.)

CIVIL ACTION NO. 80-C-567-C

DEFAULT JUDGMENT

This matter comes on for consideration this 2nd day of April, 1981, the Plaintiff appearing by Philard L. Rounds, Jr., Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Douglas W. Percell, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Douglas W. Percell, was personally served with Summons and Complaint on February 23, 1981, and that Defendant has failed to answer herein and that default has been entered by the Clerk of this Court.

The Court further finds that the time within which the Defendant could have answered or otherwise moved as to the Complaint has expired, that the Defendant has not answered or otherwise moved and that the time for the Defendant to answer or otherwise move has not been extended, and that Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover Judgment against Defendant, Douglas W. Percell, for the principal sum of \$627.20 plus interest at the legal rate from the date of this Judgment until paid.

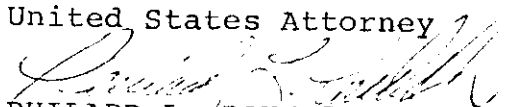
(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

UNITED STATES OF AMERICA

HUBERT H. BRYANT

United States Attorney


PHILARD L. ROUNDS, JR.

Assistant U. S. Attorney